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Report on Good Supervisory Practices regarding knowledge and ability requirements for distributors of insurance products

Table of Contents

1. Executive Summary.....	3
1.1 Notion of “appropriate knowledge and ability” to complete tasks and perform duties adequately	3
1.2 Updating knowledge and ability through continuous professional development (CPD)	4
2. Introduction.....	6
2.1 Background	6
2.2 Legal Basis, Scope and Proportionality	9
2.3 Objectives.....	11
2.4 Structure of the Report.....	13
3. Notion of “appropriate knowledge and ability” to complete tasks and perform duties adequately	14
3.1 Introduction	14
3.2 What is “Appropriate Knowledge and Ability”?	14
3.3 High-level principles and examples	15
3.4 Oversight of knowledge and ability.....	19
4. Updating knowledge and ability through continuous professional development (CPD)	21
4.1. Introduction	21
4.2. Notion of “continuous professional development”.....	22
4.3. Notion of “adequate level of performance”	23
4.4 Promotion of CPD	26
5. Next Steps	28
Annexes.....	29
Annex 1 – Extract from CEIOPS Advice on the revision of the IMD – Recommendations on High level requirements of knowledge and ability	29
Annex 2 – Existing EU Regulation on knowledge and ability requirements	36
Annex 3 - Relevant international provisions on knowledge and ability.....	49
Annex 4 – Feedback Statement	52
Annex 5 - Resolution of comments.....	59

1. Executive Summary

List of Good Supervisory Practices

1.1 Notion of “appropriate knowledge and ability” to complete tasks and perform duties adequately

EIOPA considers it good supervisory practice for a competent authority to provide that distributors have appropriate knowledge and ability (where it is relevant to their role):

- Of the applicable legal aspects, especially as regards general principles of contract law (in particular, insurance contract law), relevant regulatory and supervisory standards, consumer protection requirements, underlying tax regime, conflicts of interests mitigation rules, personal data protection regulation.
- Of the market, the market participants (e.g. producers and distributors, professional associations, consumer representatives) and products (main characteristics of the different types of products, risks, product market environment...).
- To demonstrate ethical and professional conduct at all times (e.g. ability to consider the best interests of the customer in relevant circumstances connected with concluding and executing the contract of insurance; knowledge of how to protect the customer and all parties to a transaction against fraud, misrepresentation or unethical practices in the area of business opportunities).
- To communicate effectively to the customer regarding general and particular¹ terms and conditions of the contract, complaints-handling procedures, risks and rewards of a strategy or product, by using clear and comprehensible language.
- To provide suitable and/or personalised recommendations, for example, concerning the beneficiary clause, selection of appropriate insurance products depending on their main features and adapt the recommendation to the evolving

¹ N.B. In some jurisdictions, the term “special” is also used.

consumer situation and needs.

EIOPA considers it good supervisory practice for a competent authority to ensure there is appropriate oversight of a distributor's knowledge and ability. For example:

- **An external body can be used to assess whether a distributor possesses knowledge and ability which fulfils relevant legal and regulatory requirements.**
- **This body may be in the form of a supervisory authority or a professional body not representing distributors.**
- **Some supervisory authorities permit an insurance undertaking or insurance intermediary which has full responsibility for a natural or legal person conducting insurance mediation, to conduct oversight of that person's knowledge and ability.**

1.2 Updating knowledge and ability through continuous professional development (CPD)

EIOPA considers it good supervisory practice for a competent authority to provide that distributors carry out CPD which:

- **Covers not only professional knowledge (e.g. insurance legislation, anti-money laundering legislation, market, products, assessment of consumer needs), but also ability (e.g. risks perception, underwriting process, claims procedures) and ethics (codes of conduct/ethics).**
- **Is maintained and updated. It is suggested that CPD should be undertaken regularly (for example, as a minimum, a cycle of 3 to 5 years). Each authority is to encourage CPD beyond minimum standards and expectations (for example, a minimum of 30 study hours within a period of 3 years or an equivalent on an annual basis).**
- **Is appropriately evidenced and that evidence is retained. The competent authority or professional body should review evidence demonstrating achievement of CPD, on a regular basis. Existing reporting mechanisms should be utilised to**

streamline process and prevent undue burden on distributors and competent authorities.

EIOPA considers it good supervisory practice for a competent authority to:

- **Ensure there is appropriate oversight of CPD activity:**
 - **An external body can be used to assess whether a distributor is maintaining their knowledge and ability through CPD which fulfils relevant legal and regulatory requirements.**
 - **This body may, for example, be in the form of a supervisory authority or a professional body not representing distributors.**
 - **Some supervisory authorities permit an insurance undertaking or insurance intermediary which has full responsibility for a natural or legal person conducting insurance mediation, to conduct oversight of that person's CPD.**
 - **Appropriate tools, such as registers of attendance, could be put in place to help provide proof of CPD acquired.**
- **Apply sanctions, such as a fine or ultimately, removal from the register, if distributors fail to comply with the requirement to possess and maintain appropriate knowledge and ability.**
- **Ensure that bodies responsible for oversight, make distributors aware of the importance of keeping a high level of professional knowledge and of the necessity to update it.**

2. Introduction

2.1 Background

Existing EU requirements relating to knowledge and ability for distributors of insurance products

- 2.1.1 The Insurance Mediation Directive ("IMD1")² introduced a pre-condition for registration that insurance and reinsurance intermediaries meet "*strict professional requirements in relation to their **competence**, good reputation, professional indemnity cover and financial capacity requirement*"³. In addition, Article 4(1) provided that insurance and reinsurance intermediaries must possess "**appropriate knowledge and ability**, as determined by the home Member State of the intermediary"⁴.
- 2.1.2 However, IMD1 also allows flexibility for Member States in applying these requirements at national level. Article 4(1), IMD1 allows home Member States to "*adjust the required conditions with regard to knowledge and ability in line with the activity of insurance or reinsurance mediation and the products distributed*"⁵ and Article 4(6) allows Member States to "*reinforce the requirements [regarding professional requirements in Article 4] or add other requirements for insurance and reinsurance intermediaries registered within their jurisdiction*"⁶. This minimum harmonisation approach, by its very nature, led to a divergent national implementation with respect to professional requirements for insurance and reinsurance intermediaries.
- 2.1.3 As part of the revision of IMD1 envisaged under the Solvency II Directive⁷, EIOPA's predecessor, CEIOPS, was requested to provide advice on the high level requirements on knowledge and ability of

² Directive 2002/92/EC of the European Parliament and of the Council of 9 December 2002 on insurance mediation

³ Recital 14, IMD1: "*Insurance and reinsurance intermediaries should be registered with the competent authority of the Member State where they have their residence or their head office, provided that they meet strict professional requirements in relation to their competence, good reputation, professional indemnity cover and financial capacity*". Article 3(3), IMD1: "*Member States shall ensure that registration of insurance intermediaries - including tied ones - and reinsurance intermediaries is made subject to the fulfilment of the professional requirements laid down in Article 4*".

⁴ Article 4(1), IMD1, 1st sub-para.: "*Insurance and reinsurance intermediaries shall possess appropriate knowledge and ability, as determined by the home Member State of the intermediary*".

⁵ Article 4(1), IMD1, 2nd sub-para.: "*Home Member States may adjust the required conditions with regard to knowledge and ability in line with the activity of insurance or reinsurance mediation and the products distributed, particularly if the principal professional activity of the intermediary is other than insurance mediation. In such cases, that intermediary may pursue an activity of insurance mediation only if an insurance intermediary fulfilling the conditions of this Article or an insurance undertaking assumes full responsibility for his actions*".

⁶ Article 4(6), IMD1: "*Member States may reinforce the requirements set out in this Article or add other requirements for insurance and reinsurance intermediaries registered within their jurisdiction*".

⁷ Recital 139, Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II): "*Adoption of this Directive changes the risk profile of the insurance company vis-à-vis the policy holder. The Commission should as soon as possible and in any event by the end of 2010 put forward a proposal for the revision of Directive 2002/92/EC of the European Parliament and of the Council of 9 December 2002 on insurance mediation, taking into account the consequences of this Directive for policyholders*".

insurance intermediaries, which would be appropriate, in view of the existing differences in applicable qualification systems in Member States. CEIOPS provided advice to the European Commission on the revision of IMD1 in November 2010, which included specific recommendations with respect to professional requirements⁸ (see Annex 1). In preparing this Report, EIOPA has built on the findings in the CEIOPS Advice.

Proposed new rules from the European Commission

- 2.1.4 The Commission published on 3 July 2012 a proposal for a recast version of IMD1 ("the IMD2 proposal")⁹. Article 8 of the IMD2 proposal sets out professional requirements, replacing the existing Article 4, IMD1. Article 8(1), in particular, **extends the scope of the existing knowledge and ability requirements** to *"those who pursue [insurance mediation activities] on an ancillary basis, persons carrying on the activities of the professional management of claims, loss adjusting or expert appraisal of claims, and members of staff of insurance undertakings carrying out insurance mediation activities"*. It also extends the existing obligation **beyond** one of **just possessing appropriate knowledge and ability, to a result-oriented obligation** where that knowledge and ability must be appropriate *"to complete their tasks and perform their duties adequately, demonstrating appropriate professional experience relevant to the complexity of the products they are mediating"*. The proposal therefore **explicitly links knowledge and ability with product complexity**.
- 2.1.5 In addition, the IMD2 proposal introduces an explicit obligation for insurance and reinsurance intermediaries and members of staff of insurance undertakings carrying out insurance mediation activities to **"update their knowledge and ability through continuing professional development in order to maintain an adequate level of performance"**¹⁰.
- 2.1.6 Finally, the IMD2 proposal empowers the Commission to adopt delegated acts in the following three areas:
- *"the notion of adequate knowledge and ability of the intermediary when carrying on insurance mediation with its customers as referred to in Article 8(1) [i.e. to complete tasks and perform duties adequately, demonstrating appropriate professional experience relevant to the complexity of the products they are mediating]"* (Article 8(8)(a));

⁸ CEIOPS Advice to the European Commission on the revision of the Insurance Mediation Directive (2002/92/EC), Ref: CEIOPS CCP-59/10, Date: 10 November 2010..

⁹ Proposal for a Directive of the European Parliament and of the Council on insurance mediation (recast) Strasbourg, 3.7.2012, COM(2012) 360 final, 2012/0175 (COD)

¹⁰ IMD2 proposal, Article 8(1), 2nd sub-para.

- *"appropriate criteria for determining in particular the level of professional qualifications, experiences and skills required for carrying on insurance mediation" (Article 8(8)(b));*
- *"the steps that insurance intermediaries and insurance undertakings might reasonably be expected to take to update their knowledge and ability through continuing professional development in order to maintain an adequate level of performance" (Article 8(8)(c)).*

2.1.7 **EIOPA decided to focus on Articles 8(8)(a) and 8(8)(c) in this report, with the option to address Article 8(8)(b) later once the outcome of IMD2 negotiations has become clearer hence the reason that the European Qualifications Framework (EQF)¹¹ and the issue of mutual recognition are not addressed in this report. The standards/governance arrangements applicable to external bodies and competent authorities responsible for training of distributors have also not been considered in this report, but may be considered in the future, pending the finalisation of IMD2.**

2.1.8 **In addition, the notion of adequate knowledge and ability to complete tasks and perform duties adequately has been considered on a general level, without going into detail about the complexity of the product mediated, it being recognised that some competent authorities may make the issuance of regulatory permissions/licences for distributors to mediate complex products (such as insurance investment products) contingent on those distributors having higher or more specialised qualification and experience¹².**

EIOPA's role in developing industry training standards and promoting supervisory convergence

2.1.9 EIOPA's founding Regulation¹³ requires it to *"take a leading role in promoting transparency, simplicity and fairness in the market for consumer financial products or services across the internal market, including by.....**developing training standards for the industry**"¹⁴. Developing training standards thus falls under EIOPA's key tasks related to consumer protection.*

2.1.10 In order to initiate work in this area, EIOPA published in September 2012, a Report on a mapping exercise on Industry Training Standards

¹¹ Recommendation of the European Parliament and of the Council on the establishment of the European Qualifications Framework for lifelong learning (April 2008)

¹² See also para. 2.2.5 on proportionality below.

¹³ 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)("the EIOPA Regulation")

¹⁴ Article 9(1)(c) of the EIOPA Regulation

applied by national competent authorities¹⁵. The Report looked at different requirements as regards knowledge and ability for insurance intermediaries, set down by "national competent authorities". Its aim was to provide:

- An overview of national requirements regarding "appropriate knowledge and ability" (as currently referred to under Article 4(1), IMD1) for insurance intermediaries, including structures in place for assessing knowledge and ability;
- Experience of dealing with applications for mutual recognition of knowledge and ability; and
- Sanctions for failure to possess the appropriate knowledge and ability or to update those requirements.

2.1.11 As a follow-up to the October 2012 report, EIOPA considers, in this report, **good supervisory practices regarding knowledge and ability requirements of distributors of insurance products**.

2.2 Legal Basis, Scope and Proportionality

Legal Basis

2.2.1 The legal basis for this Report is Article 29(2) of the EIOPA Regulation which provides that EIOPA "*may, as appropriate, develop new practical instruments and convergence tools to promote **common supervisory approaches and practices***".

2.2.2 Although Article 9(1)(c), EIOPA Regulation entrusts EIOPA with the task of "*taking a leading role in...developing training standards for the industry*", the initial survey it published in September 2012 (mentioned above) highlighted clearly the diversity in supervisory approaches currently in place arising out of the national implementation of the IMD.

2.2.3 It was, therefore, recognised that it **would be more appropriate for EIOPA's initial focus to be on enhancing supervisory convergence amongst "competent authorities"**¹⁶ in the area of training

¹⁵ Report on a mapping exercise on Industry Training Standards applied by national competent authorities, EIOPA BoS 12-092, 28 September 2012

¹⁶ Under Article 4(2), EIOPA Regulation, 'Competent authorities' are defined as: "(i) *supervisory authorities as defined in Directive 2009/138/EC [Solvency II], and **competent authorities as defined in Directive 2003/41/EC [IORP Directive and 2002/92/EC [IMD1]***; (ii) *with regard to Directives 2002/65/EC and 2005/60/EC, the authorities competent for ensuring compliance with the requirements of those Directives by financial institutions as defined in point (1)*".

Under Article 7, IMD1, "competent authorities" are referred to as follows: "*Member States shall designate the **competent authorities empowered to ensure implementation of this Directive***". They must be "*either public authorities or bodies recognised by national law or by public authorities expressly empowered for that purpose by national law*". They must "*possess all the powers necessary for the performance of their duties*" and "*where there is more than one competent authority on its territory, a Member State shall ensure that those authorities collaborate closely so that they can discharge their respective duties effectively*".

requirements, before developing training standards which are directly applicable to the industry.

- 2.2.4 **These Good Supervisory Practices are therefore non-binding high-level principles, which are directed only at authorities competent for supervising natural or legal persons required to meet “knowledge and ability” obligations in IMD1 and any revised Directive which replaces IMD1 (namely, IMD2). They do not constitute Guidelines subject to the “comply or explain” procedure.**
- 2.2.5 **As the scope of IMD2 has not been determined at this stage¹⁷, the term “distributor” is used in this Report to refer to any natural or legal person required to meet “knowledge and ability” requirements under IMD1 or, in the future, under IMD2.**

Proportionality

- 2.2.6 **The approach taken in this Report is to determine high-level principles that competent authorities would apply to all distributors with the aim of allowing flexibility for Member States to adopt a proportionate approach both at the outset and on an on-going basis . This could be, for example, by adapting these principles according to the different categories of persons carrying on insurance mediation at national level (in line with Article 4(1), IMD1) and/or the nature, scale and complexity of the activity of the distributor (such as, in some jurisdictions, in relation to ancillary business). In addition, in some jurisdictions, in relation to complex products such as insurance investment products, it could also mean that the issuance by a competent authority of licences or permissions for distributors to mediate complex products is contingent on the distributor having higher or more specialised qualifications and experience¹⁸).**

Definition of Knowledge and ability

- 2.2.7 “Knowledge” and “ability” are two closely related concepts and are treated as such within this report to stress their importance. N.B. EIOPA has inserted the definitions of “knowledge”, “skills” and “competence” used in the European Qualifications Framework (EQF) as footnotes below for the purposes of comparison only as these are broad definitions used for comparing qualifications across the entire EU employment market, whereas the focus of this Report is on “knowledge” and “ability” as referred to in IMD1 and IMD2:

¹⁷ Including the issue of the title of IMD2 referring to “insurance mediation”, bearing in mind the extension of the Directive to direct sales.

¹⁸ This is also in line with Principle 18.3.3 of the IAIS’ Insurance Core Principles, Standards, Guidance and Assessment Methodology (see also Annex 3)

- **"Knowledge"**, in a generic sense, refers to learning carried out and the understanding, which has been acquired as result of the learning¹⁹.
- **"Ability"**, in a generic sense, refers to a set of skills, which a professional possesses. It concerns the ability of a professional to face certain situations: for example, how a professional is able to act in difficult and challenging situations and to behave in the decision-making process²⁰.

2.2.8 What is "appropriate knowledge and ability" in the context of a distributor of insurance products, is described in more detail in section 3 of this Report.

2.3 Objectives

2.3.1 The publication of this Report is part of EIOPA's general underlying statutory objectives of *"enhancing customer protection", "preventing regulatory arbitrage and promoting equal conditions of competition" and "ensuring the taking of risks related to insurance, reinsurance and occupational pensions activities is appropriately regulated and supervised"*²¹.

2.3.2 The principal objectives of this Report are essentially threefold:

- *Enhancement of consumer protection* – by promoting enhanced knowledge and ability of distributors of insurance products, this Report thereby seeks **to improve the disclosure and selling of insurance products to consumers and thus reduce information asymmetry for consumers**. It is, however, explicitly recognised that other factors such as improved financial education and appropriate conduct of business regulation also play a crucial role in this respect and are also highlighted under Article 9 of EIOPA's founding Regulation.

¹⁹ The EQF Recommendation defines "knowledge" as the outcome of the assimilation of information through learning. Knowledge is the body of facts, principles, theories and practices that is related to a field of work or study. In the context of the European Qualifications Framework, knowledge is described as theoretical and/or factual.

²⁰ The EQF Recommendation refers to the notion of:

- "Skills" (meaning the ability to apply knowledge and use know-how to complete tasks and solve problems. In the context of the EQF, skills are described as cognitive (involving the use of logical, intuitive and creative thinking) or practical (involving manual dexterity and the use of methods, materials, tools and instruments)); and
- "Competence" (meaning the proven ability to use knowledge, skills and personal, social and/or methodological abilities, in work or study situations and in professional and personal development. In the context of the EQF, competence is described in terms of responsibility and autonomy).

²¹ Articles 1(6), (d), (e) and (f), EIOPA Regulation.

- *Promotion of supervisory convergence* - enhancing convergence in the national supervisory rules regarding knowledge and ability, which are applicable to distributors of insurance products. Under IMD1, it is left to Member States to determine at national level what "knowledge and ability" means, but this Report seeks to provide guidance on what this notion might entail for competent authorities. **By listing what EIOPA considers good supervisory practice in the area of knowledge and ability requirements for distributors of insurance products, EIOPA is thereby seeking to promote more supervisory convergence amongst competent authorities.** It is recognised, however, that the good practices in this Report are non-binding and are without prejudice to applicable requirements under national law and EU law, in particular the provisions on professional requirements in IMD1.
- *Preparatory work for IMD2* - **feeding into any further work EIOPA might have to carry out on professional requirements under IMD2**, it being recognised, however, that the text of the IMD2 legislative proposal is currently under negotiation in the Council of the EU and the European Parliament and, therefore, is subject to change. N.B. This Report is not intended to pre-empt the discussions currently going on regarding the IMD2 proposal.

2.3.3 The publication of this Report is also **in line with**:

- The **G20 High-Level Principles on Financial Consumer Protection**, which were adopted in October 2011. These high-level principles provide *inter alia* that "**staff [of financial services providers and authorised agents] (especially those who interact directly with customers) should be properly trained and qualified**"²²; and
- The **International Association of Insurance Supervisors (IAIS) Insurance Core Principle (ICP) 18 regarding Intermediaries**, which provides that "*the supervisor requires insurance intermediaries to possess **appropriate levels of professional knowledge and experience, integrity and competence***"²³.

²² G20 High-Level Principles on Financial Consumer Protection (October 2011), Principle 6, Responsible Business Conduct of Financial Services Providers and Authorised Agents. (see Annex 3 for full text).

²³ IAIS' Insurance Core Principles, Standards, Guidance and Assessment Methodology (see Annex 3 for full text).

2.4 Structure of the Report

- 2.4.1 As one of the objectives outlined above is to feed into the work envisaged on some of the delegated acts under IMD2 regarding professional requirements, the Report is structured accordingly, focusing on the delegated acts in Articles 8(8) (a) and (c), IMD2 proposal. In line with this approach, section 3 covers “notion of appropriate knowledge and ability to complete tasks and perform duties adequately”, while section 4 relates to “updating of knowledge and ability through continuous professional development (CPD)”.
- 2.4.2 A list of what EIOPA considers to be good supervisory practices is provided in the Executive Summary and at the end of each section. The Report is concluded with an indication of the next steps envisaged in this area.

3. Notion of “appropriate knowledge and ability” to complete tasks and perform duties adequately

3.1 Introduction

3.1.1 This section of the Report looks at the notion of “appropriate knowledge and ability” and what a competent authority would expect a distributor of insurance products to demonstrate in order to complete tasks and perform duties adequately. A definition of “knowledge and ability” is first provided, followed by a series of high-level principles competent authorities would apply to distributors. Each high-level principle is described and supplemented with a non-exhaustive list of examples²⁴. Finally, a series of good supervisory practices are provided.

3.2 What is “Appropriate Knowledge and Ability”?

3.2.1 Sufficient knowledge of the technical aspects of an insurance product is not enough to sell the product in the best interests of the consumer. The manner in which knowledge is applied is equally important.

3.2.2 It is also worth noting that training often focuses in an unbalanced manner on ability or knowledge. Only a combination of both knowledge and ability enables a distributor to really understand and comprehend the demands and needs of a customer. The high-level principles below therefore take into account both knowledge and ability, although the examples might focus more to one or the other concept.

- **“Knowledge”**, in the context of a distributor refers to theoretical knowledge in the widest sense, meaning: market/professional experience (including knowledge of the specificities of the insurance market as part of the overall financial system; the characteristics of insurance products both in a generic sense and in detail as regards the specific products distributed), knowledge of national insurance regulation including consumer protection rules, legal and tax aspects of insurance contracts and ethical principles. Particularly relevant is national insurance regulation implementing the provisions on consumer protection in IMD1 and other consumer protection legislation, especially the rules on conduct, transparency, conflicts of interests, pre-contractual and contractual information and advice.
- **“Ability”**, in the context of a distributor (particularly one who is a natural person or a senior member of staff of a distributor which is a legal person), consists of skills and competence with respect

²⁴ This is in line with section 2.2.4, which provides that there would be flexibility for Member States to adopt a proportionate approach in applying the high-level principles in this Report both at the outset and on an on-going basis.

to the capacity, for example, to manage a business (technical/operating skills). However, it also refers to ethical behaviour/professional conduct, e.g. ability to consider the best interests of the customer in relevant circumstances connected with concluding and executing the contract of insurance. It also includes soft skills such as communication skills – for example, dealing with customers both pre- and post-sale.

3.3 High-level principles and examples

3.3.1 Competent authorities should provide that a person who is in the process of becoming, or already operating as, a distributor, has appropriate knowledge and the ability in the following fields and fulfil requirements in these fields on a permanent basis:

- **Legal aspects**
- **The insurance sector: market, market participants and products**
- **Ethics and professional conduct²⁵**
- **Information disclosure and, where relevant, advice**

Legal aspects

3.3.2 **As a general principle**, competent authorities should provide that distributors have appropriate knowledge and ability of the relevant legal aspects. Legal aspects include national regulatory and supervisory rules based on EU Insurance Directives and any other relevant EU Directives, primary and secondary national legislation, binding and non-binding recommendations, guidelines or similar acts regarding the following indicative areas:

Examples of what a competent authority could require a distributor to demonstrate:

- Knowledge of the general principles of contract law (in particular, insurance contract law) and how to execute a contract in good faith;
- A good understanding of contractual guarantees and limitation of guarantees/exclusions, claims procedures, payment delays, withdrawal rights, potential impact of payment default, termination procedures, changes to personal situation, surrender or transfer delays, etc.
- Knowledge of relevant regulatory and supervisory standards; for example, anti-money laundering requirements, distance marketing requirements, responsible supervisory authority's

²⁵ This includes how to interact with consumers.

mission and powers, disciplinary and enforcement procedures and sanctions, if applicable.

- Awareness and ability to comply with consumer protection requirements regarding disclosure and selling of insurance products which apply throughout the duration of the contract to both product providers and distributors (e.g. where relevant, subscription, portfolio management, claims-handling, complaints-handling etc.) More specifically, how to deliver specific information with regards to the contract. This might include information on the tax regime or other relevant rules affecting the contract such as the social security regime.
- Ability to manage conflicts of interest that might arise in usual business activities, which might harm the interests of its customers (see Ethics and Professional Conduct section).
- Knowledge of personal data protection rules and handling of personal information of customers in a discrete manner.

The insurance sector: market, market participants and products

3.3.4 **As a general principle**, a competent authority should provide that distributors have appropriate knowledge of products and market participants and be able to act on this (ability) regarding the following indicative aspects:

- **Market participants:**

Examples of what a competent authority could require a distributor to demonstrate:

- Knowledge of their own duties as a distributor, the nature of risk and uncertainty, the place and function of insurance in the economy and sums and values insured.
- Knowledge of the role and the respective duties of other parties when conducting insurance mediation activities.
- Knowledge of professional associations and their codes of conduct/ethics, if relevant.
- Knowledge of consumer representatives and their missions and objectives.

- **Products:** characteristics and risks.

Examples of what a competent authority could require a distributor to demonstrate (depending on the type of product which the distributor is mediating):

- Actual and in-depth knowledge of the main characteristics of the different types of insurance products and, where applicable, their underlying financial instruments.
- Ability to understand and identify the risks and rewards of a particular strategy or product and is able to communicate it.
- Appropriate knowledge of the tax and social security regime applicable to the different products.
- Ability to place the product effectively in the market and differentiate it from the other products.

Ethics and professional conduct²⁶

3.3.5 **As a general principle**, competent authorities should provide that a distributor learns how to act professionally and ethically and how to take the interests of the consumer into account at all times regarding the following indicative aspects:

- **Ethics:**

Examples of what a competent authority could require a distributor to demonstrate:

- Ability to manage conflicts of interest that might arise in usual business activities, which might harm the interests of its customers. In such cases, a distributor is able to identify situations in which conflicts of interest arise and is able to mitigate and communicate it. For instance, an insurance intermediary is able to inform his customer whether he has an interest in a holding, direct or indirect, representing more than 10% of the voting rights or of the capital in a given insurance undertaking²⁷.
- Knowledge of how to protect the customer and all parties to a transaction against fraud, misrepresentation or unethical practices in the area of business opportunities.
- Ability to analyse problems relating to his/her own integrity and is able to communicate these effectively (e.g. warning signs of fraud and the prevention thereof or the mis-handling of personal data of customers).
- Ability to consider the best interests of the customer in relevant circumstances connected with concluding and executing the contract of insurance.
- Ability to identify, manage and control facts and behaviours through which he might incur any professional, third party

²⁶ This includes how to interact with consumers.

²⁷ As referred to in Article 12(1)(c), IMD1.

liability or management responsibility, and other forms of legal risk (e.g. anti-money laundering).

- Ability to behave at all times in a responsible manner²⁸ (e.g. fair, non-aggressive and non-misleading behaviour).
- Where relevant, awareness of compliance with a code of conduct/ethics he has endorsed as a member of an industry association or which has been imposed on him by a competent authority.

Information Disclosure and Advice

3.3.6 **As a general principle**, competent authorities should provide that distributors have appropriate knowledge and ability to provide suitable and/or personalised recommendations where relevant.

Examples of what a competent authority could require a distributor to demonstrate (where relevant to the activity of the distributor or the product he/she is mediating):

- Knowledge and ability to communicate effectively regarding general and particular²⁹ terms and conditions of the contract (including contractual guarantees and limitation of guarantees/exclusions, claims procedures, payment delays, withdrawal rights, potential impact of payment default, termination procedures, personal situation modifications, surrender or transfer delays, etc.).
- Knowledge and ability to use clear and comprehensible language, avoiding jargon and technical terms where necessary.
- Knowledge about complaints-handling procedures and the ability to handle and manage complaints and provide information on redress to the consumer (i.e. procedures, including contacts, policies).
- Knowledge and ability to answer simple and complicated questions from actual or potential customers.
- Knowledge and ability to apply/ask the appropriate questions to the customer so as to better understand and identify his/her profile, needs and demands, financial capacity and his/her long-term objectives, in due time.
- Knowledge and ability to explain the risks and rewards of a particular strategy or product to the customer.
- Ability to retain appropriate customer records³⁰.

²⁸ Principle 6 of the G20 High-Level Principles on Financial Consumer Protection (October 2011) provide *inter alia* that "financial services providers and authorised agents should have as an objective, to work in the best interest of their customers and be responsible for upholding financial consumer protection".

²⁹ N.B. In some jurisdictions, the term "special" is also used.

³⁰ Fulfilling record-keeping, data protection requirements.

- Ability to provide adequate guidance to consumers regarding the beneficiary clause.
- Ability to communicate effectively addressing their tone, manner and style whether orally or in writing to the intended audience.
- Ability to compare selected insurance products, conditions, premiums and risks and is able to select the best insurance products and conditions suited to the client profile.
- Ability to update advice, when necessary and to comply with new legislation or relevant changes in the personal situation of the customer.
- Ability to exercise appropriate judgement in deciding whether to sell a product to a customer.

3.4 Oversight of knowledge and ability

EIOPA also considers it good supervisory practice for a competent authority to ensure there is, generally, appropriate oversight of a distributor's knowledge and ability (and not just in the context of continuous professional development (CPD) - see section 4 below). For example:

- An external body can be used to assess whether a distributor possesses knowledge and ability which fulfils relevant legal and regulatory requirements.
- This body may, for example, be in the form of a supervisory authority or a professional body not representing distributors.
- Some supervisory authorities permit an insurance undertaking or insurance intermediary which has full responsibility for a natural or legal person conducting insurance mediation, to conduct oversight of that person's knowledge & ability.

EIOPA considers it good supervisory practice for a competent authority to provide that distributors have appropriate knowledge and ability (where it is relevant to their role):

- **Of the applicable legal aspects, especially as regards general principles of contract law (in particular, insurance contract law), relevant regulatory and supervisory standards, consumer protection requirements, underlying tax regime, conflicts of interests mitigation rules, personal data protection regulation.**
- **Of the market, the market participants (e.g. producers and distributors, professional associations, consumer representatives)**

and products (main characteristics of the different types of products, risks, product market environment...).

- To demonstrate ethical and professional conduct at all times (e.g. ability to consider the best interests of the customer in relevant circumstances connected with concluding and executing the contract of insurance; knowledge of how to protect the customer and all parties to a transaction against fraud, misrepresentation or unethical practices in the area of business opportunities).
- To communicate effectively to the customer regarding general and particular³¹ terms and conditions of the contract, complaints-handling procedures, risks and rewards of a strategy or product, by using clear and comprehensible language.
- To provide suitable and/or personalised recommendations, for example, concerning the beneficiary clause, selection of appropriate insurance products depending on their main features and adapt the recommendation to the evolving consumer situation and needs.

EIOPA considers it good supervisory practice for a competent authority to ensure there is appropriate oversight of a distributor's knowledge and ability. For example:

- An external body can be used to assess whether a distributor possesses knowledge and ability which fulfils relevant legal and regulatory requirements.
- This body may, for example, be in the form of a supervisory authority or a professional body not representing distributors.
- Some supervisory authorities permit an insurance undertaking or insurance intermediary which has full responsibility for a natural or legal person conducting insurance mediation, to conduct oversight of that person's knowledge and ability.

³¹ N.B. In some jurisdictions, the term "special" is also used.

4. Updating knowledge and ability through continuous professional development (CPD)

4.1. Introduction

- 4.1.1 This section of the Report looks at updating of knowledge and ability through continuous professional development (CPD) and what a competent authority would expect a distributor of insurance products to demonstrate in order to maintain an “adequate level of performance”. The notion of “continuous professional development” is first considered; then what “adequate level of performance” might entail and finally, the importance of promoting CPD.

Background

- 4.1.2 EIOPA’s Report on Industry Training Standards applied by national competent authorities³² demonstrates the lack of regulation on continuous professional development (CPD) in some Member States. It is clear from the Report that CPD is not a widely recognised/applied model.
- 4.1.3 The requirement for CPD varies considerably across Member States. In some Member States, there is no formal requirement for CPD or the introduction of a system regarding CPD is only currently envisaged. In other jurisdictions, there is a formal requirement for CPD, but the quantity, content and duration of CPD vary between Member States. The requirement for CPD for brokers, agents, tied agents, sub-agents and employees of an insurance undertaking also varies. Furthermore, there is limited availability for intermediaries to carry out updating courses through e-learning.
- 4.1.4 It is important to note that professional experience does not necessarily guarantee continuous adherence to correct principles or improvement in the quality of conduct. Holding the requisite certificates does not automatically mean that intermediaries will retain the required level of competence over a period of several years. Evidence from practitioners shows that CPD makes it possible for them not only to keep their knowledge of the rules up-to-date, but also enhance their career prospects. A high level of professional knowledge of intermediaries and staff of insurance undertakings advising on, or selling insurance products or assisting with claims, is also essential to protect the interests of the consumers.

³² Report on a mapping exercise on Industry Training Standards applied by national competent authorities, EIOPA BoS 12-092, 28 September 2012. See also section 2.1.9 above

4.2. Notion of “continuous professional development”

Legal bases

- 4.2.1 Pursuant to Article 4(5), IMD1, the pursuit of the activities of insurance and reinsurance mediation should require the professional requirements in IMD1 to be fulfilled on a permanent basis.³³
- 4.2.2 Pursuant to Article 8(1) sub-paragraph 2, IMD2 proposal, *“Member States shall ensure that insurance and reinsurance intermediaries and members of staff insurance undertakings carrying on insurance mediation activities update their knowledge and ability through continuing professional development in order to maintain an adequate level of performance”*.

Definition

- 4.2.3 CPD is a series of study activities that competent authorities would reasonably expect distributors to carry out to ensure that they keep their knowledge and ability updated in order to conduct their mediation activities with professionalism and with the aim to protect the interests of their customers.

- What?
 - Knowledge³⁴:
 - CPD should cover, for example, changes to legislation, regulatory changes, new insurance products and services available on the market, new market and consumer tendencies.
 - Ability³⁵:
 - CPD should cover, for example, the process of analysing the demands and needs of customers and offer the best product or service for them. CPD also aims at day-to-day conduct and at helping the practitioner to apply technical competence to real situations which includes risk perception, underwriting process and management, the advising rules, the claims procedures.

Knowledge and ability also includes ethics and professional conduct (see section 3 of this Report). With regards to ethics and professional conduct, CPD should

³³ Directive 2002/92/EC on insurance mediation.

³⁴ As regards the notion of “knowledge”, also refer to section 3 of this Report

³⁵ As regards the notion of “ability”, also refer to section 3 of this Report

include adherence to ethical conduct principles. Considering the risk of possible conflict of interests, judgement should be exercised by competent authorities about the validity of CPD courses that aim to market specific products.

- How?
 - CPD can, for example, be based upon points attained by enrolling on relevant courses and conferences, or by regularly attending any (renewed) course (or a module of it) or training which was necessary for the "appropriate knowledge and ability";
 - It can be proven by an examination with recognised schools or professional bodies, or simply by proving the attendance;
 - The possibility to carry out updating courses through e-learning should be developed; for example, the possibility to receive training via video link; and
 - Activities carried out should be readily identified as CPD. This could include training offered by employers, or an appropriate professional training/educational body, to maintain a sufficiently high level of knowledge and ability.

4.3. Notion of “adequate level of performance”

Duration & frequency

4.3.1 CPD is effective when undertaken on a periodical basis, regardless if this is through a formal requirement or not. Where competent authorities provide for CPD, current minimum periodical requirements vary, ranging from 30 hours per annum to approximately every five years³⁶. How often CPD should be undertaken will depend on the complexity, difficulty and frequency of new developments in the industry, for example, new regulatory requirements or products³⁷. EIOPA considers, for example, a minimum of 30 hours study activities within a period of 3 years or an equivalent amount on an annual basis, as good practice. However, it is also recognised that CPD is about an outcome-oriented approach which can be measured through various means (including a minimum number of hours) and it is up to each competent authority to determine what constitutes proof of adequate CPD.

³⁶ See Report on a mapping exercise on Industry Training Standards applied by national competent authorities, EIOPA BoS 12-092, 28 September 2012

³⁷ This is in line with section 2.2.4, which allows for a proportionate approach when applying the high-level principles in this Report, based on the nature, scale and complexity of the activity of the distributor.

Proof of continuous professional development (CPD)

4.3.2 Competent authorities should consider how distributors can best demonstrate achievement of CPD. Evidence may be:

- **Formal**, for example, a certificate of completion or assessment, a certificate of attendance at a conference or at a course on insurance given by an organizer licensed for that purpose by the competent authority or professional body; or
- **Informal**, for example, demonstration of practical experience or exercises with a coach, which could be licensed for that purpose by the competent authority or professional body.

4.3.3 An example of formal proof of CPD would be the following: after completion of CPD activity, the distributor receives study points: for example, 1 hour study activity equals 1 study point. The distributor can then demonstrate achievement of CPD when he collects at least a minimum number of study points within every period of 3 to 5 years.

4.3.4 In order to receive study points or demonstrate hours attended, the distributor should gather evidence such as a certificate from the organizer of the conference, of the courses or of the exercises. This organizer could be licensed by the authority or by the professional bodies. The competent authority should consider what appropriate records the distributor should retain to demonstrate achievement of CPD.

4.3.5 Pursuant to Article 3(3), IMD1³⁸, the validity of the registration of insurance intermediaries is subject to a regular review by the competent authority. During this review, the competent authority may ask the insurance intermediary to produce certificates ascertaining the number of study points collected by the insurance intermediary within the period concerned. This information may be recorded in the register of intermediaries held by the competent authority, but on a proportionate basis which takes into account the importance of limiting any disproportionate administrative burden on insurance undertakings, insurance intermediaries and competent authorities.

³⁸ Article 3(3), IMD1 provides: "Member States shall ensure that registration of insurance intermediaries - including tied ones - and reinsurance intermediaries is made subject to the fulfilment of the professional requirements laid down in Article 4. Member States shall also ensure that insurance intermediaries - including tied ones - and reinsurance intermediaries who cease to fulfil these requirements are removed from the register. **The validity of the registration shall be subject to a regular review by the competent authority.** If necessary, the home Member State shall inform the host Member State of such removal, by any appropriate means".

Oversight

- 4.3.6 A system or process to check that CPD carried out by individuals meets (and continues to meet) the knowledge and ability requirements, ensures a consistent approach within a jurisdiction. Current oversight mechanisms vary across jurisdictions with responsibility falling to the supervisory authority, a professional body not representing distributors, or, in some cases, an insurance undertaking or an insurance intermediary (where it is fully responsible for a natural or legal person conducting insurance mediation). There is, however, usually some form of external assessment of the distributor's CPD activity³⁹. It would be important that impartiality remained as a theme across all jurisdictions. However, it is necessary to ensure that controls are not overly burdensome or prohibitive and that distributors have a good understanding of their obligations.
- 4.3.7 Competent authorities should provide that distributors have an appropriate process in place to ensure their individuals are able to keep their knowledge up to date. This may form part of an existing training plan if one is in place.
- 4.3.8 Competent authorities should consider how CPD can be achieved and monitored without placing undue administrative burden on themselves or distributors. This could include how CPD may be monitored (e.g. through on-site inspections) or reported, what is monitored or reported and also the frequency within which CPD is required.
- 4.3.9 The organizers of conferences or courses (e.g. on insurance) or exercises licensed by the authority or by professional bodies could hold a register of attendance, mentioning, for example, the number of study points collected by each distributor and the date of the conference, course or exercise.
- 4.3.10 The information about the number of study points obtained by distributors can be collected by professional bodies for their members. The competent authority can supervise this information.
- 4.3.11 The proposed CPD structure must remain proportionate to the requested aim and avoid excessive administrative burden on distributors and competent authorities.

³⁹ See page 10 of EIOPA Report on a mapping exercise on Industry Training Standards applied by national competent authorities, 28th September 2012

Sanctions

4.3.12 Failure to update or improve knowledge and ability on an on-going basis can lead to consumer detriment. Most jurisdictions have sanctions in place for distributors, ranging from applying time limits to comply, to more serious sanctions including fines, removal of registration and imprisonment. The staff of insurance undertakings may also be subject to separate provisions regarding sanctions under the Solvency II regime or under national legal frameworks.

4.3.13 As a minimum, competent authorities may consider applying a time limit to comply where distributors have failed to keep their knowledge and ability up to date and ensure that there is an appropriate sanction in place for failure to adhere to the time-limit, such as removal from the register, censure/reprimand or a monetary penalty.

4.4 Promotion of CPD

4.4.1. Competent authorities need to make distributors and their staff aware of the importance of keeping a high level of professional knowledge and of the necessity to update it.

EIOPA considers it good supervisory practice for a competent authority to provide that distributors carry out CPD which:

- **Covers not only professional knowledge (e.g. insurance legislation, anti-money laundering legislation, market, products, assessment of consumer needs), but also ability (e.g. risks perception, underwriting process, claims procedures) and ethics (codes of conduct/ethics).**
- **Is maintained and updated. It is suggested that CPD should be undertaken regularly (for example, as a minimum, a cycle of 3 to 5 years). Each authority is to encourage CPD beyond minimum standards and expectations (for example: a minimum of 30 study hours within a period of 3 years or an equivalent on an annual basis).**
- **Is appropriately evidenced and that evidence is retained. The competent authority or professional body should review evidence demonstrating achievement of CPD, on a regular basis. Existing reporting mechanisms should be utilised to streamline process and prevent undue burden on distributors and competent authorities.**

EIOPA considers it good supervisory practice for a competent authority to:

- **Ensure there is appropriate oversight of CPD activity:**
 - **An external body can be used to assess whether a distributor is maintaining their knowledge and ability through CPD which fulfils relevant legal and regulatory requirements.**
 - **This body may, for example, be in the form of a supervisory authority or a professional body not representing distributors.**
 - **Some supervisory authorities permit an insurance undertaking or insurance intermediary which has full responsibility for a natural or legal person conducting insurance mediation, to conduct oversight of that person's CPD.**
 - **Appropriate tools, such as registers of attendance, could be put in place to help provide proof of CPD acquired.**
- **Apply sanctions, such as a fine or ultimately, removal from the register, if distributors fail to comply with the requirement to possess and maintain appropriate knowledge and ability.**
- **Ensure that bodies responsible for oversight, make distributors aware of the importance of keeping a high level of professional knowledge and of the necessity to update it.**

5. Next Steps

- 5.1 Once adopted by EIOPA's Board of Supervisors, this Report will be submitted to the European Commission and European Parliament and could serve as a basis for future own-initiative work by EIOPA on developing training standards for the Industry and any follow-up work under IMD2.

Annexes

Annex 1 – Extract from CEIOPS Advice on the revision of the IMD – Recommendations on High level requirements of knowledge and ability

4.2 High level requirements of knowledge and ability

1. Members discussed if IMD2 should prescribe the professional requirements by the different types or kinds of intermediaries. One possible way to differentiate the level of knowledge and ability requirements was not according to whether this was the main activity of the intermediary or the kind of intermediation activity pursued, but whether or not there is direct contact with the insurance undertaking. By making a distinction in this way (as already implemented by some Member States) between agents and brokers on one hand, and on the other those intermediaries who have a contractual relationship with agents and brokers and acting under their responsibility. In this regard, the aim of consumer protection could be fully fulfilled, considering that the lower level of professionalism requirements would be stated only for the intermediaries acting on behalf of and under the responsibility of an agent or broker.
1. However, this approach is not universal across Member States and it will be necessary to consider quite carefully how greater harmonisation could be achieved via this route. With regards to this, some Member States underlined a possible significant disadvantage of the approach based on the relationship with insurance undertakings as intermediaries who are usually in direct contact with the customer and for this reason, they should possess a higher knowledge and ability in order to provide advice. As such, the knowledge and ability requirements could be differentiated according to whether or not they have direct contact with the customer, instead of contact with the insurance undertaking.
2. From all the considerations above, different possible criteria emerged to differentiate the knowledge and ability requirements according to the category of intermediary. Therefore, it would be difficult to provide a differentiation of professional requirements according to the type of intermediary in IMD2.
3. In addition, in application of Article 4(5), IMD, the knowledge and ability of intermediaries are monitored, not only at

registration, but also on an on-going basis, imposing sanctions in cases of infringements. For example, one Member requires that intermediaries must regularly update their professional knowledge through the annual attendance of updating courses lasting a minimum of 30 hours.

4. From the conclusion of the [CEIOPS Report](#), it emerged that all Member States implemented at least the minimum standards provided for in the IMD and in some cases stricter regulations have been adopted, in accordance with the minimum harmonisation provisions in the IMD.
5. So, the following areas could be taken into account in determining the high-level professional requirements:
 - A clear desire by Member States for intermediaries to act ethically i.e. the standard of professional behaviour that is expected;
 - IMD2 to move away from defining roles and focus on definitions of activities to account for national differences;
 - Intermediaries to maintain the appropriate standard of skills, knowledge and ability on an on-going basis;
 - Member States' ability to retain responsibility for setting the appropriate professionalism standards in their own jurisdiction based on the high level principles provided by IMD2.
6. From the above, it is clear that there is a desire to engender a minimum level of professional standards. However, the current legislation has a mix of what defines competence e.g. the measures that define effective performance to a certain standard, such as possessing the appropriate knowledge and ability with how good reputation should be demonstrated e.g. the behaviours or ethical standards that should be displayed, such as having a clean police record and not being declared bankrupt. It should be noted that some of these requirements are already enshrined in national laws. It was noted that Members prefer to retain responsibility for specifying details of professional standards at national level.
7. During the discussion, different alternatives were analysed in order to identify the high-level requirements of knowledge and ability as requested by the European Commission.
8. In particular, many Members are not in favour of the potential accreditation of private organisations (both at the

domestic and at EU level) recognised by supervisors as responsible for training and competence requirements, among other things, given the risk of conflict of interest between private business and the sake of a public objective.

9. It has been suggested instead to find high-level principles that could include ethics (which would encompass both competence and consumer protection), rather than prescribing specific content, in order to avoid the necessity to update it on a regular basis and also the risk of creating barriers to entry.
10. However, there may be a need to go further than a high-level principle with regards to verifying knowledge and ability, in some specific areas, but note that the obligation to carry out this activity should be carefully considered as any duty on the Competent Authority to carry out this function may prove unduly burdensome. It could also be useful for IMD2 to specify the following further illustrative principles, such as:
 - (a) **Necessary verification of the competence of intermediaries** (for example, requiring a qualifying examination for intermediaries who have direct contact with insurance undertakings, who are agents and brokers, and the attendance of training courses for intermediaries acting on behalf of, and under the responsibility of agents and brokers, such as subagents and collaborators of agents and brokers, with the possibility of differentiating depending on the category of intermediaries. Some Members proposed, as another option, imposing stricter requirements on the latter group of collaborators rather than the intermediaries in contact with insurance undertakings while they are in direct contact with customers and are the main risk factors for causing losses to customers. A Member suggested that for tied agents, as defined in Article 2(7), IMD, the insurance undertaking should be responsible for the training); and
 - (b) **Updating professional knowledge** through attendance at updating courses, in order that professional requirements are fulfilled on a permanent basis, as stated by Article 4(5), IMD. (As regards to this, two Members underlined the administrative burden of an annual obligation. Among those, one Member proposed looking at Article 22, Directive 2005/36/EC on the recognition of professional qualifications which states that "*continuing education and training shall ensure that persons who have completed their studies are able to keep abreast of professional developments to the extent necessary to maintain safe and effective practice*". According to Directive 2005/36/EC, this requirement of continuing education and training does apply to higher education e.g. doctors,

dentists, veterinary surgeons or architects. The organisation of the training is ceded to the Member States).

- (c) **the required competence could be adequate to the activity to be pursued and to the types of insurance contracts to be mediated, aimed to obtain an up-to-date level of theoretical knowledge, technical and operating skills and skills in dealing with customers;**
- (d) **the knowledge of legislation**, technical, fiscal and of economic matters relating to insurance, with special regard to the regulation of insurance contracts as well as the technical features and legal aspects of the insurance contracts that the intermediaries seeking registration, will distribute;
- (e) **the provisions on consumer protection as provided by the IMD and other relevant legislation, with particular reference to the rules of conduct and transparency towards policyholders and insured persons, conflict of interest, pre-contractual and contractual information to provide to the customers and adequacy of contractual proposals to the demands and needs of the customer.**

11. However, specifying “how” intermediaries demonstrate competence, at Directive level, may be difficult to achieve in practice for a number of reasons. For example, restricting competence to a qualifications framework may put up barriers for intermediaries who may be able to demonstrate competence through market experience.
12. On the other hand, the IMD2 could be reformulated in order to increase the level of consumer protection, by providing for a set of common provisions aimed at achieving an adequate level of competence verified by Member States, which could take into account the possible integration of the mutual recognition clause of knowledge and ability. In addition, to develop a non-exhaustive list of all the desired competencies that suits each Member State would be challenging. This approach would also not account for market innovations or changes in structure and could quickly become out of date and necessitate revisions to the directive on a regular basis. **However, this does not preclude an indicative list of competencies being included as an Annex to the Directive, for guidance purposes.**

Recommendation 11

- The majority of Members are in favour of the general aim of finding a common basic principle of knowledge and ability, irrespective of the method of distribution.
- Most Members support, as a minimum basis, a high-level principle which gives Member States the possibility to graduate the knowledge and ability requirements according to the activity pursued or type of intermediary.
- Members are unanimous in their view that employees of insurance undertakings should not be registered under IMD2. It should be the responsibility of the insurance undertaking to check the qualification and good repute of its employees.

Possible integration of the provisions of the Luxembourg Protocol relating to the mutual recognition clause into IMD2

1. Members evaluated the possibility of integrating a mutual recognition clause into IMD2 connected with harmonising knowledge and ability requirements, taking into account the existing differences between Member States.
2. The general system of the Directive 2005/36 on the recognition of professional qualifications which the Luxembourg Protocol refers to (Title III, Chapter I), states that *"if access to or pursuit of a regulated profession in a host Member State is contingent upon possession of specific professional qualifications, the Competent Authority of that Member State shall permit access to and pursuit of that profession, under the same conditions as apply to its nationals, to applicants possessing the attestation of competence or evidence of formal qualifications required by another Member State in order to gain access to and pursue that profession on its territory"* (see Article 13). The Directive provides a mechanism for recognising equivalent qualifications, but it does not specify the level of competency that should be demonstrated i.e. markets and product knowledge.
3. Furthermore, Article 14(3), Directive 2005/36 provides that *"By way of derogation from the principle of the right of the applicant to choose, as laid down in paragraph 2, for professions whose pursuit requires precise knowledge of national law and in respect of which the provision of advice and/or assistance concerning national law is an essential and constant aspect of the professional activity, the host Member State may stipulate either an adaptation period or an*

aptitude test”.

4. Members were of the opinion that a minimum level of harmonisation of knowledge and ability requirements is desirable in order to avoid unnecessary burdens on Member States to put in place systems to recognise qualifications by non-national intermediaries. But, given the variability among Member States of fiscal regimes, markets, etc., the ability to embed this at directive level may be difficult to achieve. In addition, as some Member States specify professional requirements by the different types of intermediaries, to include a non-exhaustive list of the equivalent requirements for each intermediary, which closely matches the descriptions in each Member state, would be a challenge. However, consideration should be given to whether there is merit in determining a minimum set of requirements on which to base a mutual recognition clause of knowledge and ability. Note: some Members maintain that the less harmonisation achieved, the higher the duration of previous experience required in order to ensure a level playing field.
5. One Member suggested that the mutual recognition clause should be extended to persons who are employees of intermediaries and directly involved in intermediation activities. This would allow such persons to move from one Member State to another and work as employees of intermediaries in another Member State.

Recommendation 12

- The majority of Members generally support a mutual recognition clause of intermediaries’ knowledge and ability, preferably in IMD2 rather than in the Luxembourg Protocol.

Recommendation 13

- The majority of Members support the development of a mutual recognition clause of intermediaries’ knowledge and ability, taking inspiration from the repealed system of the first Mediation Directive 77/92 or under the general Directive 2005/36. (Note that this is in addition to the provisions relating to FOS and FOE). This solution could, for example, recognise a previous minimum registration period that the insurance or reinsurance intermediary was registered by another Member State, on condition that the registration had not been revoked by a sanction and the licence was concurrent. Note: consideration should be given to freedom of movement under the Treaty.

- the pursuit of the previous intermediation activity shall not have ceased for a defined period before the date when the application for the new registration is made (see Article 7, Directive 77/92);
- the proof of the previous registration shall be established by a certificate, issued by the Competent Authority or body in the Member State of origin or Member State whence the person concerned comes, which the latter shall submit in support of his application presented to the new Member State (see Article 9, Directive 77/92).

Annex 2 – Existing EU Regulation on knowledge and ability requirements

Directive/Regulation	Article/Recital	Provision
Insurance Mediation Directive (IMD) (Directive 2002/92/EC)	Recital 8	<i>The coordination of national provisions on professional requirements and registration of persons taking up and pursuing the activity of insurance mediation can therefore contribute both to the completion of the single market for financial services and to the enhancement of customer protection in this field.</i>
	Recital 14	<i>Insurance and reinsurance intermediaries should be registered with the competent authority of the Member State where they have their residence or their head office, provided that they meet strict professional requirements in relation to their competence, good repute, professional indemnity cover and financial capacity.</i>
	Article 3	<p><i>Article 3(3): Member States shall ensure that registration of insurance intermediaries — including tied ones — and reinsurance intermediaries is made subject to the fulfilment of the professional requirements laid down in Article 4.</i></p> <p><i>Member States shall also ensure that insurance intermediaries— including tied ones — and reinsurance intermediaries who cease to fulfil these requirements are removed from the register. The validity of the registration shall be subject to a regular review by the competent authority. If necessary, the home Member State shall inform the host Member State of such removal, by any appropriate means.</i></p>
	Article 4	<p><i>Article 4(1): Insurance and reinsurance intermediaries shall possess appropriate knowledge and ability, as determined by the home Member State of the intermediary.</i></p> <p><i>Home Member States may adjust the required conditions with regard to knowledge and ability in line with the activity of insurance or reinsurance mediation and the products distributed, particularly if the principal professional activity of the intermediary is other than insurance mediation. In such cases, that intermediary may pursue an activity of insurance mediation only if an insurance intermediary fulfilling the conditions of this Article or an insurance undertaking assumes full responsibility for his actions.</i></p>

Directive/Regulation	Article/Recital	Provision
		<p><i>Member States may provide that for the cases referred to in the second subparagraph of Article 3(1), the insurance undertaking shall verify that the knowledge and ability of the intermediaries are in conformity with the obligations set out in the first subparagraph of this paragraph and, if need be, shall provide such intermediaries with training which corresponds to the requirements concerning the products sold by the intermediaries.</i></p> <p><i>Art. 4(2): Insurance and reinsurance intermediaries shall be of good repute. As a minimum, they shall have a clean police record or any other national equivalent in relation to serious criminal offences linked to crimes against property or other crimes related to financial activities and they should not have been previously declared bankrupt, unless they have been rehabilitated in accordance with national law.</i></p> <p><i>Art. 4(5): Pursuit of the activities of insurance and reinsurance mediation shall require that the professional requirements set out in this Article be fulfilled on permanent basis.</i></p> <p><i>Art. 4(6): Member States may reinforce the requirements set out in this Article or add other requirements for insurance and reinsurance intermediaries registered within their jurisdiction.</i></p> <p><i>Art. 8(3): Member States shall provide for appropriate sanctions in the event of an insurance or reinsurance intermediary's failure to comply with national provisions adopted pursuant to this Directive.</i></p>
<p>Solvency II (Directive 2009/138/EC)</p>	<p>Recitals 34-35</p>	<p><i>(34) All persons that perform key functions should be fit and proper. However, only the key function holders should be subject to notification requirements to the supervisory authority.</i></p> <p><i>(35) For the purpose of assessing the required level of competence, professional qualifications and experience of those who effectively run the undertaking or have other key functions should be taken into consideration as additional factors.</i></p>

Directive/Regulation	Article/Recital	Provision
	Article 42	<p>Article 42 - Fit and proper requirements for persons who effectively run the undertaking or have other key functions</p> <p><i>1. Insurance and reinsurance undertakings shall ensure that all persons who effectively run the undertaking or have other key functions at all times fulfil the following requirements:</i></p> <p><i>(a) their professional qualifications, knowledge and experience are adequate to enable sound and prudent management (fit); and</i></p> <p><i>(b) they are of good repute and integrity (proper).</i></p>
Professional Qualifications Directive (Directive 2005/36)	Recital 15	<i>In the absence of harmonisation of the minimum training conditions for access to the professions governed by the general system, it should be possible for the host Member State to impose a compensation measure. This measure should be proportionate and, in particular, take account of the applicant's professional experience. Experience shows that requiring the migrant to choose between an aptitude test or an adaptation period offers adequate safeguards as regards the latter's level of qualification, so that any derogation from that choice should in each case be justified by an imperative requirement in the general interest.</i>
	Article 13	<p>Article 13 - Conditions for recognition</p> <p><i>1. If access to or pursuit of a regulated profession in a host Member State is contingent upon possession of specific professional qualifications, the competent authority of that Member State shall permit access to and pursuit of that profession, under the same conditions as apply to its nationals, to applicants possessing the attestation of competence or evidence of formal qualifications required by another Member State in order to gain access to and pursue that profession on its territory.</i></p>
	Article 14(3)	<p>Article 14 - Compensation measures</p> <p><i>3. By way of derogation from the principle of the right of the applicant to choose, as laid down in paragraph 2, for professions whose pursuit requires precise knowledge of national law and in respect of which the provision of advice and/or assistance concerning national law is an essential and constant aspect of the professional activity, the host Member State may stipulate</i></p>

Directive/Regulation	Article/Recital	Provision
		<i>either an adaptation period or an aptitude test.</i>
Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts	Articles 6 – 13 and 30	<p>Article 6(Educational qualifications)</p> <p><i>Without prejudice to Article 11, a natural person may be approved to carry out a statutory audit only after having attained university entrance or equivalent level, then completed a course of theoretical instruction, undergone practical training and passed an examination of professional competence of university final or equivalent examination level, organised or recognised by the Member State concerned.</i></p> <p>Article 7 (Examination of professional competence)</p> <p><i>The examination of professional competence referred to in Article 6 shall guarantee the necessary level of theoretical knowledge of subjects relevant to statutory audit and the ability to apply such knowledge in practice. Part at least of that examination shall be written.</i></p> <p>Article 13 (Continuing education)</p> <p><i>Member States shall ensure that statutory auditors are required to take part in appropriate programmes of continuing education in order to maintain their theoretical knowledge, professional skills and values at a sufficiently high level, and that failure to respect the continuing education requirements is subject to appropriate penalties as referred to in Article 30.</i></p> <p>Article 30 (Systems of investigations and penalties)</p> <p><i>1. Member States shall ensure that there are effective systems of investigations and penalties to detect, correct and prevent inadequate execution of the statutory audit.</i></p> <p><i>2. Without prejudice to Member States' civil liability regimes, Member States shall provide for effective, proportionate and dissuasive penalties in respect of statutory auditors and audit firms, where statutory audits are not carried out in conformity with the provisions adopted in the implementation of this Directive.</i></p>

Directive/Regulation	Article/Recital	Provision
		<i>3. Member States shall provide that measures taken and penalties imposed on statutory auditors and audit firms are appropriately disclosed to the public. Penalties shall include the possibility of the withdrawal of approval.</i>

Forthcoming EU legislation

Directive/Regulation	Article/Recital	Provision
<p>Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on insurance mediation (recast)</p> <p>(Text as proposed by the European Commission in July 2012)</p>	Recitals 22-25	<p><i>(22) It is important to guarantee a high level of professionalism and competence among insurance and reinsurance intermediaries and the employees of direct insurers who are involved in activities preparatory to, during and after the sales of insurance policies. Therefore, the professional knowledge of an intermediary, of the employees of direct insurers, and of car rental companies and travel agents, as well as the professional knowledge of persons carrying on the activities of the management of claims, loss adjusting or expert appraisal of claims needs to match the level of complexity of these activities. Continuing education should be ensured.</i></p> <p><i>(23) The coordination of national provisions on professional requirements and registration of persons taking up and pursuing the activity of insurance or reinsurance mediation can therefore contribute both to the completion of the single market for financial services and to the enhancement of customer protection in this field.</i></p> <p><i>(24) In order to enhance cross border trade, principles regulating mutual recognition of intermediaries' knowledge and abilities should be introduced.</i></p> <p><i>(25) A national qualification accredited to level 3 or above under the European Qualification Framework established under the Recommendation of the European Parliament and Council of 23 April 2008 on the establishment of the European Qualifications Framework for lifelong learning¹⁶ should be accepted by a host member state as demonstrating that an insurance or reinsurance intermediary meets the requirements of knowledge and ability which are a condition of registration in</i></p>

		<p>accordance with this Directive. This framework helps Member States, education institutions, employers and individuals compare qualifications across the Union's diverse education and training systems. This tool is essential for developing an employment market throughout the Union. This framework is not designed to replace national qualifications systems but to supplement the actions of the Member States by facilitating cooperation between them.</p>
	<p>Article 8 (Professional and organisational requirements - Extract)</p>	<p><i>1. Insurance and reinsurance intermediaries, including those who pursue these activities on an ancillary basis, persons carrying on the activities of the professional management of claims, loss adjusting or expert appraisal of claims, and members of staff of insurance undertakings carrying out insurance mediation activities, shall possess appropriate knowledge and ability, as determined by the home Member State of the intermediary or undertaking, to complete their tasks and perform their duties adequately, demonstrating appropriate professional experience relevant to the complexity of the products they are mediating.</i></p> <p><i>Member States shall ensure that insurance and reinsurance intermediaries and members of staff of insurance undertakings carrying out insurance mediation activities update their knowledge and ability through continuing professional development in order to maintain an adequate level of performance.</i></p> <p><i>Member States may adjust the required conditions with regard to knowledge and ability in line with the particular activity of insurance or reinsurance mediation and the products mediated, particularly if the principal professional activity of the intermediary is other than insurance mediation. In such cases, that intermediary may pursue an activity of insurance mediation only if an insurance intermediary fulfilling the conditions of this Article or an insurance undertaking assumes full responsibility for the intermediary's actions.</i></p> <p><i>Member States may provide that in the cases referred to in the second subparagraph of Article 3(1), the insurance undertaking or intermediary shall verify that the knowledge and ability of the intermediaries are in conformity with the obligations set out in the first subparagraph of this paragraph and, if need be, shall provide such intermediaries with training which corresponds to the requirements concerning the products sold by the intermediaries.</i></p> <p><i>Member States need not apply the requirement referred to in the first subparagraph of</i></p>

		<p><i>this paragraph to all the natural persons working in an insurance undertaking or insurance or reinsurance intermediary who pursue the activity of insurance or reinsurance mediation. Member States shall ensure that a reasonable proportion of the persons within the management structure of such undertakings who are responsible for mediation in respect of insurance and reinsurance products and all other persons directly involved in insurance or reinsurance mediation demonstrate the knowledge and ability necessary for the performance of their duties.</i></p> <p><i>8. The Commission shall be empowered to adopt delegated acts in accordance with Article 33. Those delegated acts shall specify</i></p> <p><i>(a) the notion of adequate knowledge and ability of the intermediary when carrying on insurance mediation with its customers as referred to in paragraph 1 of this Article;</i></p> <p><i>(b) appropriate criteria for determining in particular the level of professional qualifications, experiences and skills required for carrying on insurance mediation;</i></p> <p><i>(c) the steps that insurance intermediaries and insurance undertakings might reasonably be expected to take to update their knowledge and ability through continuing professional development in order to maintain an adequate level of performance.</i></p>
<p>Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on markets in financial instruments repealing Directive 2004/39/EC of the European Parliament and of the Council (Recast)</p> <p>(General approach of 18th June 2013)</p>		<p>Recital 38</p> <p><i>It is necessary to strengthen the role of management bodies of investment firms in ensuring sound and prudent management of the firms, the promotion of the integrity of the market and the interest of investors. The management body of an investment firm should at all times commit sufficient time and possess adequate collective knowledge, skills and experience to be able to understand the investment firm's activities including the main risks.</i></p> <p>Article 9 Management body</p> <p><i>1. Member States shall require that all members of the management body of any investment firm shall at all times be of sufficiently good repute, possess sufficient knowledge, skills and experience.</i></p>

		<p><i>(b) The management body shall possess adequate collective knowledge, skills and experience to be able to understand the investment firm's activities, including the main risks.</i></p> <p><i>2. Member States shall ensure that investment firms which are significant in terms of their size, internal organisation and the nature, scope and complexity of their activities, establish a nomination committee composed of members of the management body.</i></p> <p><i>The nomination committee shall carry out the following:</i></p> <p><i>(c) periodically assess the knowledge, skills and experience of individual members of the management body and of the management body collectively, and report this to the management body;</i></p> <p><i>4. Member States shall ensure that the management body of an investment firm defines and oversees the implementation of the governance arrangements that ensure effective and prudent management of an organisation including the segregation of duties in the organisation and the prevention of conflicts of interest. Those arrangements shall comply with the following principles:</i></p> <p><i>(b) the management body shall define, approve and oversee the organization of the firm, including the skills, knowledge and expertise required to personnel, the resources, the procedures and the arrangements for the provision of services and activities by the firm, taking into account the nature, scale and complexity of its business and all the requirements the firm has to comply with</i></p> <p><i>5. The competent authority shall refuse authorisation if it is not satisfied that the persons who will effectively direct the business of the investment firm are of sufficiently good repute possess sufficient knowledge, skills and experience, or if there are objective and demonstrable grounds for believing that the management body of the firm may pose a threat to its effective, sound and prudent management and to the adequate consideration of the interest of its clients and the integrity of the market.</i></p> <p><i>6. Member States shall require that the management of investment firms is undertaken by at least two persons meeting the requirements laid down in paragraph 1.</i></p> <p><i>By way of derogation from the first subparagraph, Member States may grant</i></p>
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		<p><i>authorisation to investment firms that are natural persons or to investment firms that are legal persons managed by a single natural person in accordance with their constitutive rules and national laws. Member States shall nevertheless require that:</i></p> <p><i>(i) alternative arrangements be in place which ensure the sound and prudent management of such investment firms and the adequate consideration of the interest of clients and the integrity of the market;</i></p> <p><i>(ii) the natural persons concerned are of sufficiently good repute, possess sufficient knowledge, skills and experience and commit sufficient time to perform their duties.</i></p> <p>Article 29 - Obligations of investment firms when appointing tied agents</p> <p><i>3. Member States shall ensure that tied agents are only admitted to the public register if it has been established that they are of sufficiently good repute and that they possess appropriate general, commercial and professional knowledge so as to be able to communicate accurately all relevant information regarding the proposed service to the client or potential client.</i></p>
<p>Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on credit agreements relating to residential property (Amendments adopted by the European Parliament on 10 September 2013)</p>	<p>Recitals 32-34 and 36, Article 9, 30 and Annex III</p>	<p>Recitals 32-34 and 36</p> <p><i>It is appropriate to ensure that the relevant staff of creditors, credit intermediaries and appointed representatives possess an adequate level of knowledge and competence in order to achieve a high level of professionalism. This Directive should, therefore, require relevant knowledge and competence to be proven at the level of the company, based on the minimum knowledge and competence requirements set out in this Directive. Member States should be free to introduce or maintain such requirements applicable to individual natural persons. Member States should be able to allow creditors, credit intermediaries and appointed representatives to differentiate between the levels of minimum knowledge requirements according to the involvement in carrying out particular services or processes. In this context, staff includes outsourced personnel, working for and within the creditor, credit intermediary or appointed representatives as well as their employees. For the purpose of this Directive, staff directly engaged in activities under this Directive should include both front- and back-office staff, including management, who fulfil an important role in the credit agreement process. Persons fulfilling support functions which are unrelated to the credit agreement process (for instance human resources and information and</i></p>

		<p>communications technology personnel) should not be considered as staff under this Directive.</p> <p>(33) Where a creditor or credit intermediary provides its services within the territory of another Member State under the freedom to provide services, the home Member State should be responsible for establishing the minimum knowledge and competence requirements applicable to the staff. However host Member States which deem it necessary should be able to establish their own competence requirements in certain specified areas applicable to creditors and credit intermediaries that provide services within the territory of that Member State under the freedom to provide services.</p> <p>(34) Given the importance of ensuring that knowledge and competence requirements are applied and complied with in practice, Member States should require competent authorities to supervise creditors, credit intermediaries and appointed representatives and empower them to obtain such evidence as they need to reliably assess compliance.</p> <p>(36) This Directive provides for harmonised rules as regards the fields of knowledge and competence that creditors', credit intermediaries' and appointed representatives' staff should possess in relation to the manufacturing, offering, granting and intermediation of a credit agreement. This Directive does not provide for specific arrangements directly related to the recognition of professional qualifications obtained by an individual in one Member State in order to meet the knowledge and competence requirements in another Member State. Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications¹ should therefore continue to apply concerning the conditions for recognition and the compensation measures that a host Member State may require from an individual whose qualification has not been issued within its jurisdiction.</p> <p>Article 9 - Minimum competence requirements for staff</p> <p>1. Member States shall ensure that creditors, credit intermediaries and appointed representatives require their staff to possess and to keep up-to-date an appropriate level of knowledge and competence in relation to the manufacturing, the offering or granting of credit agreements, the carrying out of credit intermediation activities set out in point 5 of Article 4 or the provision of advisory services. Where the conclusion of a credit agreement includes an ancillary service, appropriate knowledge and competence in relation to that ancillary service shall be required.</p>
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		<p>2. Except in the circumstances referred to in paragraph 3, home Member States shall establish minimum knowledge and competence requirements for creditors', credit intermediaries' and appointed representatives' staff in accordance with the principles set out in Annex III.</p> <p>3. Where a creditor or credit intermediary provides its services within the territory of one or more other Member States:</p> <p>(i) through a branch, the host Member State shall be responsible for establishing the minimum knowledge and competence requirements applicable to the staff of a branch;</p> <p>(ii) under the freedom to provide services, the home Member State shall be responsible for establishing the minimum knowledge and competence requirements applicable to the staff in accordance with Annex III, however host Member States may establish the minimum knowledge and competence requirements for those requirements referred to in points (b), (c), (e) and (f) of paragraph 1 of Annex III.</p> <p>4. Member States shall ensure that compliance with the requirements of paragraph 1 is supervised by the competent authorities, and that the competent authorities have powers to require creditors, credit intermediaries and appointed representatives to provide such evidence as the competent authority deems necessary to enable such supervision.</p> <p>5. For the effective supervision of creditors and credit intermediaries providing their services within the territory of other Member States under the freedom to provide services, the competent authorities of the host and the home Member States shall cooperate closely for the effective supervision and enforcement of the minimum knowledge and competence requirements of the host Member State. For that purpose they may delegate tasks and responsibilities to each other.</p> <p>Article 30 - Credit intermediaries tied to only one creditor</p> <p>2. Without prejudice to Article 34, creditors shall monitor the activities of tied credit intermediaries specified in point (a) of point 7 of Article 4 in order to ensure that they continue to comply with this Directive. In particular, the creditor shall be responsible for monitoring compliance with the knowledge and competence requirements of the</p>
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		<p><i>ties credit intermediary and its staff.</i></p> <p><i>3. Without prejudice to Article 34, credit intermediaries shall monitor the activities of their appointed representatives in order to ensure full compliance with this Directive. In particular, the credit intermediaries shall be responsible for monitoring compliance with the knowledge and competence requirements of the appointed representatives and their staff.</i></p> <p>ANNEX III Minimum knowledge and competence requirements</p> <p><i>1. The minimum knowledge and competence requirements for creditors', credit intermediaries' and appointed representatives' staff referred to in Article 9 and for persons involved in the management of credit intermediaries or appointed representatives referred to in point (c) of Article 29(2) and Article 31(2) need to include at least:</i></p> <ul style="list-style-type: none"> <i>(a) appropriate knowledge of credit products within the scope of Article 3 and the ancillary services typically offered with them;</i> <i>(b) appropriate knowledge of the laws related to the credit agreements for consumers, in particular consumer protection;</i> <i>(c) appropriate knowledge and understanding of the immovable property purchasing process;</i> <i>(d) appropriate knowledge of security valuation;</i> <i>(e) appropriate knowledge of organisation and functioning of land registers;</i> <i>(f) appropriate knowledge of the market in the relevant Member State;</i> <i>(g) appropriate knowledge of business ethics standards;</i> <i>(h) appropriate knowledge of the consumer's creditworthiness assessment process or, where applicable, competence in assessing consumers' creditworthiness;</i> <i>(i) appropriate level of financial and economic competency.</i> <p><i>2. When establishing minimum knowledge and competence requirements Member States may differentiate between the levels and types of requirements applicable to the staff of creditors, the staff of credit intermediaries or appointed representatives and the management of credit intermediaries or appointed representatives.</i></p> <p><i>3. Member States shall determine the appropriate level of knowledge and competence on the basis of:</i></p>
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		<p><i>(a) professional qualifications, e.g. diplomas, degrees, training, competency tests; or</i></p> <p><i>(b) professional experience, which may be defined as a minimum number of years working in areas related to the origination, distribution or intermediation of credit products.</i></p> <p><i>After ...*, the determination of the appropriate level of knowledge and competence shall not be based solely on the methods listed in point (b) of the first subparagraph.</i></p>
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Annex 3 - Relevant international provisions on knowledge and ability

Type of provision	Article/Recital/ Principle	Provision
G20 High-Level Principles on Financial Consumer Protection (October 2011)	Principle 6	<p>6. Responsible Business Conduct of Financial Services Providers and Authorised Agents</p> <p><i>Financial services providers and authorised agents should have as an objective, to work in the best interest of their customers and be responsible for upholding financial consumer protection. Financial services providers should also be responsible and accountable for the actions of their authorised agents.</i></p> <p><i>Depending on the nature of the transaction and based on information primarily provided by customers financial services providers should assess the related financial capabilities, situation and needs of their customers before agreeing to provide them with a product, advice or service. Staff (especially those who interact directly with customers) should be properly trained and qualified. Where the potential for conflicts of interest arise, financial services providers and authorised agents should endeavour to avoid such conflicts. When such conflicts cannot be avoided, financial services providers and authorised agents should ensure proper disclosure, have in place internal mechanisms to manage such conflicts, or decline to provide the product, advice or service.</i></p> <p><i>The remuneration structure for staff of both financial services providers and authorised agents should be designed to encourage responsible business</i></p>

		<p>conduct, fair treatment of consumers and to avoid conflicts of interest. The remuneration structure should be disclosed to customers where appropriate, such as when potential conflicts of interest cannot be managed or avoided.</p>
<p>IAIS' Insurance Core Principles, Standards, Guidance and Assessment Methodology</p>	<p>ICP 18 (Intermediaries)</p>	<p>18.3 - The supervisor requires insurance intermediaries to possess appropriate levels of professional knowledge and experience, integrity and competence.</p> <p>Professional Knowledge & Experience</p> <p>18.3.1 - It is important that individuals working as insurance intermediaries have adequate professional knowledge to carry out their responsibilities. Professional knowledge can be gained from experience, education and training. Importantly, to be able to demonstrate that a certain level of professional knowledge has been achieved, it is preferable that this is supported by the attainment of relevant professional qualifications.</p> <p>18.3.2 - Professional qualifications underpin the quality of work carried out by professionals, including insurance intermediaries. The supervisor thus has an interest in ensuring that insurance intermediaries have policies and procedures which encourage individuals to achieve relevant professional qualifications.</p> <p>18.3.3 - The supervisor may also wish to ensure that individuals responsible for Insurance intermediation activities have professional qualifications and experience appropriate for the business which they intermediate. More complex products or Customer needs will require higher or more specialised qualification and experience. The qualifications and experience of individuals should also be appropriate for the type of intermediation being carried out, whether as agent for a specific insurer or acting as a broker primarily on</p>

		<p><i>behalf of the Customer. Once professional qualifications have been achieved, it is important that individuals who continue to work as insurance intermediaries keep their professional knowledge up to date. Certain professional bodies require their members to spend a specified minimum amount of time on continuous professional development.</i></p> <p><i>18.3.4 - The supervisor may consider recognising the qualifications of specified professional bodies. Where a jurisdiction has no such professional body, consideration could be given to encouraging or recognising qualifications obtained through professional bodies in other jurisdictions. The supervisor might also consider recognising international qualifications where these are considered to be equivalent to, or exceed, a jurisdiction's qualifications.</i></p> <p><i>18.3.5 - Intermediaries should also be knowledgeable regarding the status of the insurers whose products they sell. For example, they should be aware of the jurisdiction(s) in which the insurer is licensed, whether they are placing business with a branch or subsidiary company, the financial status and credit rating of the insurer and the applicability of any policyholder protection schemes to that insurer's products.</i></p>
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Annex 4 – Feedback Statement

Introduction

On 27 June 2013, EIOPA published a Consultation Paper on a draft Report on Good Supervisory Practices regarding knowledge and ability requirements for distributors of insurance products. EIOPA invited comments from interested parties by 23 September 2013. This document is a summary of the contributions received. EIOPA would like to thank its Insurance and Reinsurance Stakeholder Group (IRSG) and all participants to the public consultation for their comments on the Report.

Consultation Paper

The aim of the Consultation Paper was to invite interested parties to comment on the Report on Good Supervisory Practices regarding knowledge and ability requirements for distributors of insurance products. The responses received have provided important guidance to EIOPA in preparing a final version of the Report.

Respondents were invited to provide comments on five questions contained in the Report:

1. *Does this Report address the most relevant issues? If not, what other aspects should EIOPA consider?*
2. *Is this Report helpful in informing the debate over appropriate knowledge and ability requirements for distributors of insurance products (particularly, in the light of the current negotiation of the IMD2 proposal)?*
3. *Do you consider that the high-level principles cover the right aspects of knowledge and ability?*
4. *Does the section on continuous professional development (CPD) cover the most relevant issues?*
5. *What do you think of EIOPA's suggestion, as an example of a minimum level of CPD, of 30 hours study activities within a period of 3 years (or an equivalent amount on an annual basis)?*

Responses to the Consultation

General comments

There was general support for the Report in terms of encouraging an appropriate level of knowledge & ability for distributors of insurance products and most respondents were of the view that the Report captured the most relevant issues relating to knowledge & ability. In addition, all of the comments made were given careful consideration by EIOPA in the attached document, which provides for EIOPA's Resolutions on the comments received [*EIOPA-XXXX-XX-XXX Summary of Comments on Consultation Papers EIOPA-CP-13/016*].

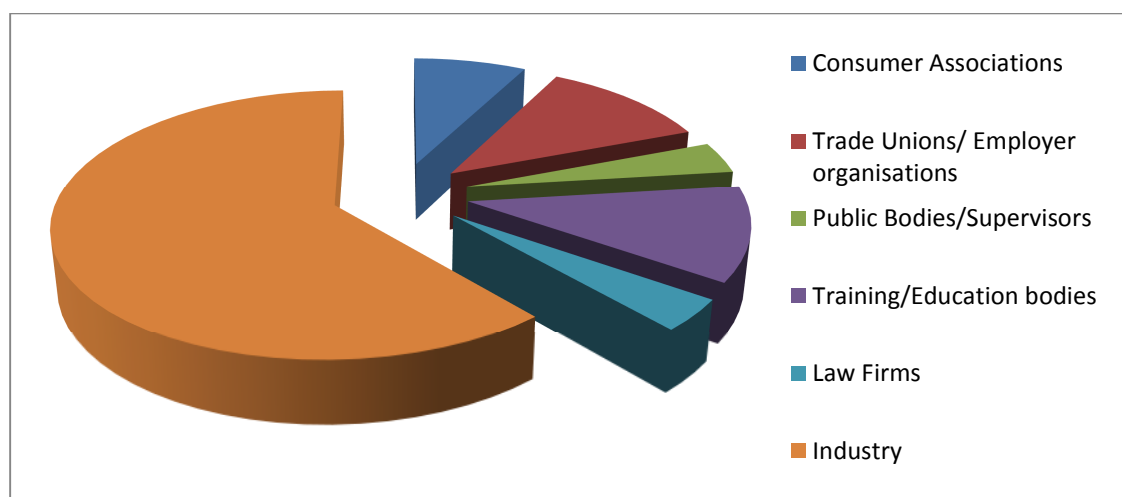
Statistics

EIOPA received a formal opinion from EIOPA's Insurance and Reinsurance Stakeholder Group (IRSG) pursuant to Article 37(6)⁴⁰ of its empowering Regulation⁴¹ and 26 responses to the public consultation, for publication⁴².

Respondents can be classified into six main categories: *Consumer Associations, Trade Unions/Employer representative organisations, Public Bodies/Supervisors, Training/Education Bodies, Law Firms* and *Industry representatives*. Below is a summary of the responses received per type and per origin:

Respondents to public consultation per type

Contributions were received from 16 Industry representatives (62%), 3 Training/Education bodies (12%), 3 Trade Union/Employer organisations (12%), 2 Consumer Associations (8%), 1 Public Body/Supervisor (3%) and 1 law firm (3%).



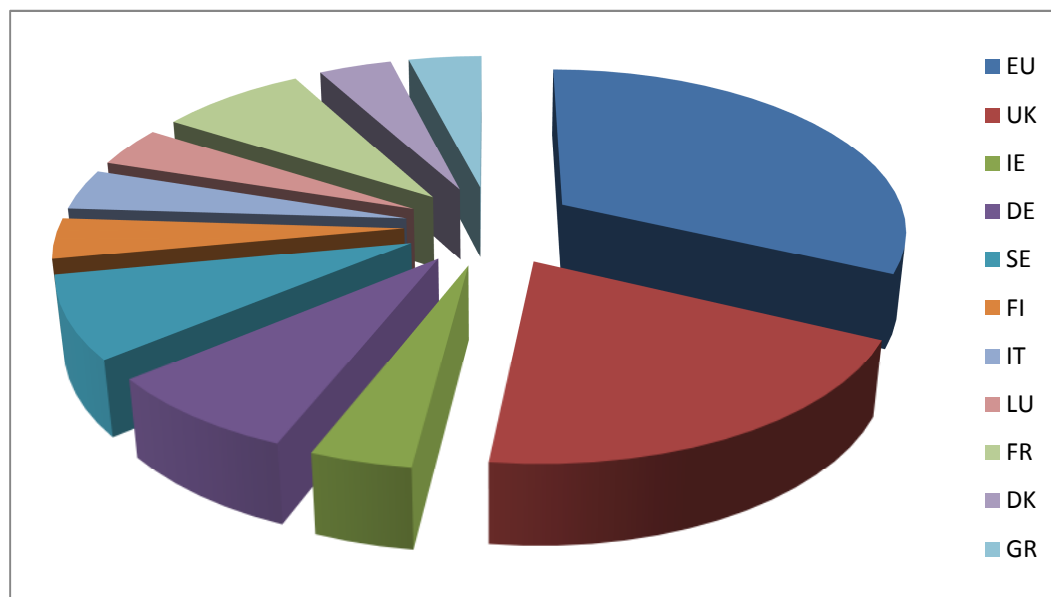
⁴⁰ “The Stakeholder Groups may submit opinions and advice to the Authority on any issue related to the tasks of the Authority with particular focus on the tasks set out in Articles 10 to 16, and Articles 29, 30 and 32”.

⁴¹ 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

⁴² These responses and the IRSG opinion have been published on EIOPA's website:
<https://eiopa.europa.eu/consultations/consultation-papers/index.html>

Respondents to the public consultation per origin

Contributions were received from interested parties in 8 EU Member States (*UK: 19%, FR: 8%, DE: 8%, SE: 8%, DK: 4%, FI: 4%, IT: 4% and LU: 4%*) and, in 8 instances, from organisations on an EU-wide basis (31%).



IRSG opinion

In its formal opinion, the IRSG provided helpful general and specific observations on the Report. Its general observations recognised the international framework (G20, IAIS) in which the Report was being drafted and raised concerns over whether the Report would achieve its objective of supervisory convergence and whether it was appropriate to deliver such a report before IMD2 is finalised. Concerns were raised about the need to apply the principles in the Report in a manner which is proportionate, risk-based and avoids creating unnecessary administrative burden. Its specific observations echoed, to a large extent, the comments that were received from the 26 respondents (see below). EIOPA has sought to address the concerns raised by the IRSG both in its revised text of the Report and Resolutions on the comments received (see Annex 5).

Specific comments on the Guidelines, Best Practices Report and Impact Assessment

The following is a summary of the key topics raised during the public consultation and EIOPA's consideration of these issues:

- **Proportionality (e.g. link to product complexity and oversight of knowledge & ability)** – A number of comments raised the argument that the Report was too prescriptive and appeared to impose obligations directly on distributors in the form of guidelines. It was suggested that detailed training requirements would lead to administrative burden and additional costs, which would be passed onto consumers in premiums. It was stressed that knowledge & ability should be proportionate to the complexity of the products being mediated and the type of activity being mediated e.g. ancillary business. In addition, it was also emphasised that it should be the insurer's responsibility to train staff and/or intermediaries and it should be made clear that this possibility for oversight by the insurer relates not just to CPD, but possession of knowledge and ability generally.

EIOPA does not consider the Report to be overly prescriptive as it contains high-level non-binding principles, which are supplemented by indicative examples of what a competent authority could require a distributor to demonstrate. The Report is directed at competent authorities only in order to promote common supervisory approaches. It is not subject to the "comply or explain" procedure under Article 16 of EIOPA's founding Regulation and it is up to competent authorities to decide how to apply these principles at national level.

EIOPA did consider the link between training standards and the complexity of products, however chose not to go in detail about this issue as there are a variety of different approaches on this issue at national level. However, the Report has been amended to explicitly recognise the fact that, in some jurisdictions, the issuance by a competent authority of licences or permissions for distributors to mediate complex products (such as insurance investment products) is contingent on the distributor having higher or more specialised qualifications and experience. The Commission proposal on IMD2 is still under discussion and could still be significantly modified. EIOPA therefore prefers to focus on good supervisory practices, but will be ready to consider in more detail the link to complexity of products, once IMD2 is adopted.

This report does not deal with requirements as to who is responsible for the actions of staff of insurance undertakings. It is up to Member States to implement any legal or regulatory act if deemed necessary, in accordance with national legislation. The Report has, however, been amended to make

clear that the oversight principles applicable to CPD, also apply to possession of knowledge and ability generally.

- **No need for change in *status quo*/wait for IMD2:** A number of comments were received that the requirements in IMD1 work well and have produced quality training systems at national level. Industry training standards should be set at national level. The Report should, therefore be postponed until IMD2 is adopted to avoid interference with the legislative process. Questions were also raised over how EIOPA would ensure that the Report did not conflict with IMD2 and on whether EIOPA would consult again on the Report once IMD2 is adopted.

EIOPA is not convinced that IMD1 has produced optimal outcomes in terms of knowledge & ability for distributors of insurance products. It has led to a lot of divergent approaches at national level, as shown by the survey published by EIOPA in October 2012. It also does not contain a pro-active updating requirement, hence the reason for the proposals in IMD2. This Good Supervisory Practices report is non-binding and is not subject to the "comply or explain" procedure. Therefore, it is up to Member States to implement any legal or regulatory act if deemed necessary, in accordance with national legislation.

The IMD2 proposal is under discussion and could still be modified. However, from a consumer protection perspective, EIOPA considers industry training standards as key in the insurance sector. Indeed, EIOPA is required under its empowering legislation to take a leading role in relation to, for example, developing training standards for the industry. EIOPA therefore prefers to focus on good supervisory practices, but will be ready to adapt these in the light of IMD2.

- **Borderline between training requirements and conduct of business requirements** –two opposing arguments were raised on this issue:
 - (i) The examples of knowledge & ability e.g. regarding conflicts of interest, are conduct of business obligations, not training requirements. In addition, comments were made that the examples relating to the ability to manage conflicts of interest should be covered under "Ethics" as opposed to "Ability".
 - (ii) The fact that distributors are failing to disclose information properly to consumers, is due to poor training, as opposed to poor disclosure rules.

EIOPA considers that the Report makes a clear differentiation between requirements relating to knowledge, ability and ethics of distributors and

requirements relating to the conduct of business of distributors at the point of sale (e.g. disclosure and selling requirements).

- **Interaction with the European Qualifications Framework/Mutual Recognition** – some comments were received that the Report does not align with the terminology used in the European Qualifications Framework (EQF) e.g. “knowledge”, “skills” and “competences”. In addition, the report does not refer to a qualification level and therefore does not promote mutual recognition. The Report could also cover the standards/governance arrangements applicable to external bodies which are responsible for overseeing the training of distributors.

The Report uses the terms “knowledge and ability”, rather than the terminology used in the European Qualifications Framework (EQF) as “knowledge” and “ability” derive from an existing EU Directive, IMD1, which relates specifically to distributors of insurance products whereas the EQF is based on a non-binding Recommendation from the Commission which relates to lifelong learning in the whole EU employment market.

EIOPA has focussed on knowledge and ability and updating requirements in this Report as opposed to the level of qualifications of distributors or the process of mutual recognition of qualifications (where distributors move to another Member State and apply for a new registration), which could be considered in a second stage. EIOPA’s survey of national knowledge & ability requirements in 2012 indicated limited occurrence of requests to national competent authorities by distributors for mutual recognition of qualifications.

The standards/governance arrangements applicable to external bodies and competent authorities responsible for training of distributors may also be considered in a second stage, pending the finalisation of IMD2.

- **Promotion of a minimum amount of CPD should be discouraged** – a number of comments were made that EIOPA should not propose, even as an example, a minimum level of CPD, namely 30 hours over 3 years as it implies a one-size-fits-all approach which would not be appropriate for all distributors. An outcome-oriented, rather than an input-oriented, approach was considered more appropriate. It was also pointed that it should also be made clearer that it is possible for CPD to be carried out on an annual basis rather than in a 3-year cycle.

EIOPA does not consider 30 hours of CPD over 3 years or an equivalent amount on an annual basis as a standard, but an example of a minimum level of CPD. The hours and the content of CPD can be different for different types of distributors. It is also recognised that CPD is an

outcome-oriented approach, which can be measured through various means and it is ultimately up to each competent authority to determine what constitutes proof of adequate CPD.

Annex 5 - Resolution of comments

Summary of Comments on Consultation Paper - EIOPA-CP-13/016 CP-13-016 Industry Training Standards	EIOPA-BoS-13/172 23 September 2013
<p>EIOPA would like to thank for their comments:</p> <ul style="list-style-type: none">• EIOPA’s Insurance and Reinsurance Stakeholder Group (IRSG)• Consumer Associations: BEUC, UK Financial Services Consumer Panel• Trade Unions/Employer representative organisations: Danish Employers Association for the Financial Sector and Nordic Financial Unions (NFU), UNI Europa Finance• Public Bodies/Supervisors: Central Bank of Ireland• Training/Education Bodies: eficert (European Financial Certification Organisation), The Chartered Insurance Institute and the UK Institute and Faculty of Actuaries• Law Firms: I.K. Rokas & Partners Law Firm• Industry representatives: Allianz SE, ANASF, Association of International Life Offices (AILO), BIPAR, Eurofinas (The European Federation of Finance House Associations), European Federation of Financial Advisers and Financial Intermediaries (FECIF), FARAD International S.A., Federation of Finnish Financial Services, FFSA, German Insurance Association, Insurance Europe, Insurance Sweden, Leaseurope, MACIF, RSA Insurance Group plc and Standard Life Assurance Limited <p>The numbering of the paragraphs refers to Consultation Paper No. EIOPA-CP-13/016</p> <p>The views expressed in these Resolutions are preliminary and do not bind in any way EIOPA or any other parties in the future development of the Report. They are aimed at gathering stakeholders’ and other relevant parties’ opinions to be used as a working document for the consultation process.</p>	

			<p>ability". In particular, IMD2 extends scope and content of the existing requirements, introduces an explicit obligation to update knowledge and ability through continuing professional development, and empowers the Commission to adopt delegated acts in three areas.</p> <p>Therefore, the IRSG supports a study on the topics included in the areas that have been delegated to the Commission, as a preparatory work for IMD2, but the IRSG emphasizes the following criticalities.</p> <p>The IRSG is cautious in assuming that references to IMD2 by EIOPA to be effective, given the current state of the preparatory works on this project. The IRSG also highlights the potential conflict between the outcome of promoting supervisory convergence in the area of industry training before IMD2 has been finalized and the power to set knowledge and ability standards that the European Commission can receive under IMD2.</p> <p>Finally, the IRSG believes that the proposal to apply the professional requirements also to the staff of insurance undertakings would meet the need for a proportionate, risk-based approach avoiding creating an unnecessary administrative burden. Insurance undertakings and their staff meet these requirements in a variety of different ways, such as under Solvency II and national labour law. Insurance undertakings are responsible for training their employees and they design their own training programs. This is consistent with CEIOPS' advice to the European Commission recommending that it should be the responsibility of the insurance undertaking to check the qualification of its employees.</p>	<p>Noted re a study. EIOPA published a survey on Industry Training Standards applied by national competent authorities in October 2012 to help provide an evidence base for this Good Practices Report.</p> <p>Agreed re need to avoid conflict with IMD2; however, EIOPA also has an important own-initiative task to develop training standards for the industry under Article 9 of its empowering legislation.</p> <p>We agree with the need for a proportionate approach hence the fact that the Report explicitly states that oversight may be carried out by the insurance undertaking itself in some jurisdictions.</p>
2.	Allianz SE	General Comment	<p>Allianz SE shares the view, that competent knowledge and ability of their business is of prime importance for distributors of insurance products. We therefore welcome and support the proposal of the European Commission to recast the EU</p>	Noted

			<p>Directive on Insurance Mediation (IMD 2) with <i>inter alia</i> the demand for quantitative and qualitative determined and verifiable continuing education.</p> <p>We nevertheless reject the power to adopt delegated acts regarding eligible criteria for the assessment of the level of professional skills as proposed by the European Commission but welcome the Committee on Economic and Monetary Affairs decision declared in Parliament, to let these eligible criteria solely be determined by the Member States.</p>	
3.	BEUC	General Comment	<p>We welcome the opportunity to respond to this discussion paper and feed into EIOPA's work on supervisory practices in the area of insurance distribution.</p> <p>By definition, an insurance contract is intended to cover risks that rarely occur at individual level. This means that the consumer is not able to learn from past experience to choose the best insurance contract or the best insurance intermediary as it is the case when buying a physical product. This is the reason why it is so important that mediation insurance service is of high quality for consumers.</p> <p>The role of the intermediary is to assist consumers in making the best choice when purchasing an insurance contract. The wrong buying decision and the resulting potential loss can have a significant financial impact on consumers. This does not only apply to life insurance, but also to general insurance where the potential maximum loss for the insured can have devastating financial consequences in cases where it turns out that the cover was not adequate or appropriate or the consumer was unable to claim.</p> <p>In the case of travel insurance for example, repatriation costs can easily amount to tens of thousands of euros¹ and if the intermediary has failed to raise the issue of pre-existing medical conditions, consumers may end up not being covered despite having taken out an insurance policy. Therefore,</p>	Noted

			<p>training and professional competence requirements for insurance intermediaries are of great importance for consumer protection. Currently, the setting of such standards is left to Member States and the interpretation of the requirements of the Insurance Mediation Directive varies significantly. This can lead to significant gaps in consumer protection, especially in the case of cross-border contracts.</p> <p>According to medical insurer AllClear, the average repatriation cost for UK holiday makers at the beginning of 2009 was GBP 25,000, quoted in Daily Mail 13 February 2009. http://www.dailymail.co.uk/travel/article-1145024/Medical-repatriation-new-high.html</p>	<p>Agreed. Different levels of training for distributors can lead to different levels of consumer protection.</p>
4.	BIPAR (the European Federation of Insurance Intermediaries)	General Comment	<p>BIPAR welcomes the opportunity provided by EIOPA to comment on the consultation paper on a Draft Report on Good Supervisory Practices regarding knowledge and ability requirements for distributors of insurance products.</p> <p>In general, BIPAR supports the various principles from IMD I regarding knowledge and ability and promotes also an appropriate system of continuous professional development for insurance distributors.</p> <p>BIPAR believes that every consumer who is in contact with someone who carries on an intermediation (or insurance distribution) activity should have the right and certainty that he or she is in contact with someone who has the knowledge and ability necessary for the performance of his or her duties. This is one of the reasons why BIPAR in the framework of IMD II is in favour of a wide and activity-based scope with only very limited exceptions.</p> <p>The training systems in the various European Member States are still very different. We do not believe these differences are problematic.</p> <p>The differences in the systems are mainly due to the variety in national education and training infrastructures and systems or</p>	<p>Noted</p> <p>We also consider these differences to be due to the way in which IMD1 was</p>

		<p>due to the involvement of other Ministries, social partners, industry, in the organisation of training.</p> <p>In the framework of EIOPA's current exercise, one has to look at this broader picture and at the cost that changes or specifications would imply. A one-size-fits-all approach does not seem to be appropriate or necessary or acceptable in this area of regulation. Good practices in one market are certainly not per definition good practices in other markets.</p> <p>Appropriate knowledge and ability for all those who are in contact with the consumer for the purpose of intermediating could be evaluated by demonstrating the competences necessary for the performance of their duties and where relevant for the intermediaries activities. This can at national level be expressed under the form of learning inputs and learning outputs related to the activity of the intermediary and in a variety of ways to be determined by the Member States.</p> <p>In terms of training requirements, it should be considered that persons who are working for example in the marine division of an intermediary do not need knowledge on, for example, car insurance. The intermediary should have flexibility. Without this, the European insurance sector would lose critical know-how.</p> <p>Training has also a competitive aspect. Indeed, the know-how of the persons working in one insurance intermediation business distinguishes the business from another intermediation / distribution business.</p> <p>Defining detailed training requirements could lead to administrative burden - in particular in a business-to-business environment. Intermediaries should continue to have the possibility to train people on the work floor to become specialists.</p> <p>The current requirements in the IMD have over the years resulted in quality training systems adapted to the specificities of the market, in the various national Member States and are</p>	<p>implemented as it is minimum harmonising in the area of professional requirements.</p> <p>Agree that one-size-fits all approach may not be appropriate, hence the reason the Report contains high-level non-binding principles.</p> <p>Noted.</p> <p>Agreed, hence the reason we are proposing high-level principles and a list of indicative examples of what a competent authority could require a distributor to demonstrate.</p> <p>We are not convinced that the requirements in the IMD have resulted in</p>
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		<p>still being developed and improved.</p> <p>Systems should also ensure that continuity is guaranteed.</p> <p>The topic of knowledge and ability is very specific and requires special national competence and knowledge, both from the side of the competent authorities and from the side of the training providers.</p> <p>It may be possible that in some Member States, supervisory authorities do not have the required powers (or know-how) to develop training requirements and supervise the systems. Some of the aspects may depend on, or may interfere with legislation in the area of national education and/or social legislation.</p> <p>Following to the above, we believe that the consultation paper goes already very far in making suggestions, not only for good supervisory practices but already in detail for requirements for distributors.</p> <p>Although we understand that EIOPA with this draft Report wants to anticipate future legislation and although such a proactive approach may be considered as an act of good governance and of forward-thinking, we are concerned about the timing of this consultation and about the relevance of its outcome. Indeed, the starting point of this consultation is a mix of existing IMD I rules and potential future IMD II wording.</p> <p>Our main concern is that the drafted practices are not considered by stakeholders in the context of the final legislative framework and its implementation at national level. It is impossible to judge the possible impact of the draft practices in this report in the context of an unknown future regulatory framework. We are therefore unable to give many comments to the proposed contents at this moment.</p> <p>Finally, we wonder if there will be another consultation once the IMD II is adopted. What will be the status of this report once the IMD II is adopted?</p>	<p>quality training systems as the Commission has come forward with proposals for amending IMD1 in this area.</p> <p>The Report contains non-binding high-level principles and indicative examples of what a competent authority could require a distributor to demonstrate.</p> <p>Our aim is not necessarily to anticipate future legislation, but to fulfil a mandate under our empowering legislation. IMD2 is referred to in order to provide a steer, but we are not seeking to pre-empt the outcome of IMD2.</p> <p>We may need to consider the content of this Report once IMD2 is adopted, but this Report is, in any event, non-binding and only contains high-level principles.</p>
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			To summarise, we support an adequate level of knowledge and ability, as well as continuous professional development, but do not believe this should be regulated at European level in much detail.	
5.	Central Bank of Ireland	General Comment	<p>Section 1.2, second paragraph:</p> <p><input type="checkbox"/> In Ireland, the Central Bank's Minimum Competency Code 2011 (MCC) moved away from a three-year cycle which included a mix of formal and informal CPD hours to an annual requirement of 15 formal hours of CPD. The requirement for completion of informal hours was removed due to its non-verifiable nature. Therefore, the Central Bank recommends a requirement of 15 formal hours of CPD per calendar year to be good practice.</p> <p>Section 3.2.2, Ability:</p> <p><input type="checkbox"/> Knowledge and Ability should refer to technical knowledge rather than soft skills such as communications skills, referred to in the sub-bullet (Ability) on page 17 of the Consultation Paper.</p> <p><input type="checkbox"/> Please note that not all persons providing insurance mediation will necessarily be managing a business.</p> <p>Section 3.3.1:</p> <p><input type="checkbox"/> The last bullet point should read: "Information disclosure and, where relevant, advice" as information disclosure should always be relevant.</p> <p>Section 3.3.2, Bullet point 6:</p> <p><input type="checkbox"/> Ability to manage conflicts of interest should be covered by conduct of business rules or operational requirements on firms as opposed to knowledge and ability requirements.</p>	<p>The Report provides as an alternative for an equivalent amount on annual basis. Report re-drafted to refer to "an equivalent amount on an annual basis" in the Executive Summary.</p> <p>Report re-drafted to refer to "soft skills"</p> <p>Report re-drafted to: "<i>with respect to the capacity to, <u>for example</u>, manage a business</i>".</p> <p>Report re-drafted as suggested</p>

			<p>Section 4.3.1, Duration & frequency:</p> <p><input type="checkbox"/> We consider a more structured annual requirement of 15 formal hours to be good practice. In addition, the content of CPD should be relevant to the functions in respect of which the individual is a qualified person and should consist of technical skills rather than soft skills, for example, time management or negotiation skills.</p> <p>Section 4.3.5, Proof of CPD:</p> <p><input type="checkbox"/> Please note that the requirement to record compliance with CPD on the register of intermediaries may not be practical for firms that employ a significant number of employees.</p>	<p>Agreed, hence the reason “an equivalent amount on an annual basis” is also referred to.</p> <p>Agreed, hence the reason it is stressed that it should be on a proportionate basis.</p>
6.	Danish Employers Association for the Financial Sector	General Comment	<p>Overall, the insurance industry in Denmark agrees that the mentioned requirements have a value for customers, companies and employees, and therefore we agree to the designated areas. The insurance industry also agree that in general, both knowledge and skills are required at a certain level to advise clients in relation to insurance and pension products. Moreover, the industry finds it natural that there is a continuing education to ensure that employees have updated their knowledge in order to serve their customers from a professional level and ensure that the industry has a key role in the Danish welfare system.</p> <p>However, Denmark would like to highlight the importance of recognizing the diversity of insurance distribution markets across Member States and that any possible future requirements or practices must be very flexible to accommodate this diversity.</p> <p>There are <u>two</u> general principles in the report we would like to point out as absolutely central to the Danish insurance and pension sector:</p> <ol style="list-style-type: none"> 1. IMD II training requirements must be done by national implementation, and compliance must be ensured by a national regulator. If the requirements of the IMD II are 	<p>Noted</p> <p>Agreed, but we believe there also opportunities to promote more common approaches in the area of supervision.</p> <p>Noted. The final IMD2 training provisions will be determined by the EU co-legislators.</p>

			<p>not aligned and anchored nationally, there will be no reason to adapt national conditions which are essential due to the very different markets, organisations and national conditions which prevail in the 28 EU countries.</p> <p>2. As regards the requirements for competence as well as continuing education, the overriding principle should be "output" oriented, rather than defined via inputs (knowledge/extent). By focusing on what employees can instead of what "input" and extent of training they have, one will ensure professional competencies, thereby creating real value for consumers, employees and businesses.</p>	
7.	eficert (European Financial Certification Organisation)	General Comment	<p>The European Financial Certification Organisation (eficert) founded in November 2002 is the largest professional and educational organisation for insurance education in Europe. The members of eficert are associations and institutes, which actively represent the educational interests and ideals of their sector industry wide throughout the territory of their European countries of origin in insurance, building society and/or financial services sector that meets the standards of eficert. As EIOPA is the umbrella organisation of the national supervisory organisations, eficert is a network organisation of all national educational and vocational training organisations in Europe.</p> <p>The harmonisation of the European Market requires uniform standards in vocational education in the financial services sector. Eficert sets these standards based on national educational systems and qualifications. Those standards target output-oriented systems and qualifications. The certification system bases on national educational courses in the financial services sector that meet the standards of eficert.</p> <p>It is important to differentiate between supervisory institutions and the national educational and vocational institutions. Supervisory institutions are protecting the consumer and</p>	<p>Noted</p> <p>Noted. This Report is addressed to "competent authorities" under EIOPA's empowering Regulation.</p>

			<p>surveying the insurance industry market. The national educational and vocational institutions develop and produce all educational and vocational training in the insurance industry market.</p> <p>Therefore, those organisations are responsible for all educational and vocational concerns including the definition of and its adaption to appropriate knowledge and CPD respecting national needs.</p> <p>It is essential that supervisory institutions will not produce education. Their task is to supervise the institutions whether they respect those defined minimal standards with offered education. To define the content of each specific education should be up to the institutions of educational and vocational training.</p> <p>The main aspect of respecting the diversity and flexibility is to focus on when proceeding with definitions and regulations. Nationally rooted organisations for educational and vocational training to the specific insurance industry market are able to create adequate CPD. They act targeted on the market needs and respect the protection of consumers.</p>	<p>According to the survey carried out by EIOPA in October 2012, in some jurisdictions, training is carried out by supervisory authorities.</p>
8.	Eurofinas (The European Federation of Finance House Associations)	General Comment	<p>1. Introductory Observations</p> <p>Eurofinas, the voice of consumer credit providers at European level welcomes the opportunity to respond to the Consultation Paper on the Draft Report on Good Supervisory Practices regarding Knowledge and Ability Requirements for Distributors of Insurance Products.</p> <p>Eurofinas supports the work of the European Insurance and Occupational Pensions Authority (EIOPA) in promoting transparency, simplicity and fairness in the market for insurance products and services across Europe.</p> <p>1.1 As acknowledged by EIOPA, the recast of the Insurance Mediation Directive (IMD2) is currently on-going. The Proposal introduces an explicit obligation for insurance intermediaries to</p>	<p>Noted.</p> <p>Noted. The Report has been amended to explicitly recognise the fact that, in some jurisdictions, the issuance by a competent</p>

		<p>actively maintain and update their knowledge and ability. The Proposal explicitly links knowledge and ability with the complexity of the distributed products.</p> <p>As a general observation, we believe that professional requirements should always be consistent with the complexity of the products the intermediary is mediating. These requirements should not directly apply to those intermediaries that provide insurance products on an ancillary basis and that work under the full responsibility of insurance undertakings or another insurance intermediary. The latter should have the responsibility for training, authorising and monitoring the former.</p> <p>Requirements should allow for adequate flexibility to match market operational reality and constraints while at the same time ensuring a high degree of professionalism and consumer protection. We therefore support the Commission's proposals for these provisions.</p> <p>1.2 As previously stressed by our Federation, balanced professional and training requirements are key to ensuring a high level of professionalism and consumer protection. As these concepts are essential aspects of the framework on insurance mediation, we believe that utmost care should be given to avoid possible contradictions with the future IMD2.</p> <p>In line with the conclusions of its September 2012 Report on Industry Training Standards, we agree with EIOPA that any work in relation to knowledge and ability for insurance distributors should first focus on enhancing supervisory convergence rather than the development of training standards, etc.</p> <p>We trust that our comments will be taken into account and remain at the disposal of the Authority should any further questions arise.</p> <p>2. Who we are</p>	<p>authority of licences or permissions for distributors to mediate complex products (such as insurance investment products) is contingent on the distributor having higher or more specialised qualifications and experience.</p> <p>Agreed, hence the Report contains high-level principles which are non-binding.</p> <p>Noted.</p>
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		<p>As a Federation, Eurofinas brings together associations throughout Europe that represent finance houses, universal banks, specialised banks and captive finance companies of car or equipment manufacturers.</p> <p>The products sold by Eurofinas members include all forms of consumer credit products such as personal loans, linked credit, credit cards and store cards. Consumer credit facilitates access to assets and services as diverse as cars, education, furniture, electronic appliances, etc. It is estimated that together the Eurofinas members financed over 312 billion Euros worth of new loans during 2012 with outstandings reaching 828 billion Euros at the end of the year.</p> <p>In addition to the provision of consumer loans, companies represented by Eurofinas distribute insurance products on an ancillary basis. Insurance products distributed include, among others, asset protection insurance, loan protection insurance and liability insurance. These insurance products are distributed either directly by consumer credit firms or by partners (retailers, motor dealers, etc.) that are part of their supply chain and that will also act as intermediaries.</p> <p>Eurofinas represents a specific part of the insurance mediation sector that is very different from traditional brokerage. Eurofinas members, as well as their partners, play a crucial role in the distribution of insurance products across Europe. They are in direct contact with both insurance undertakings and policy holders. In this context, provisions on insurance distribution are directly applicable to consumer credit providers as well as their distribution networks.</p> <p>3. Specific Remarks</p> <p>Proportionality</p> <p>We take note of the high level approach taken by EIOPA on the notion of knowledge and ability for insurance distributors. We appreciate the need for EIOPA to propose solutions/suggestions</p>	Noted.
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			<p>that will embrace the diversity of markets, including products and distribution channels.</p> <p>However, we take the view that the proportionality of measures has not been sufficiently discussed in this Draft Report. Though we understand that local supervisors need flexibility to adjust requirements to their local framework and market characteristics, we strongly believe that it is EIOPA's responsibility to ensure that proportionality is duly taken into account in all aspects (including sanctions) of knowledge and ability of insurance distributors.</p> <p>Industry Standards</p> <p>We take the view that a reference to existing industry standards/codes of conduct could be included in the Draft Report. For example, a high number of Eurofinas members have developed and implemented codes of good practice. These codes set out guidance and general principles by which member lending institutions should operate and establish the standards of behaviour which are expected from them. Where applicable, they may cover professional/training requirements including for ancillary products/services such as insurance.</p>	<p>Disagree, under IMD1, EIOPA does not have direct competence yet in that area; it is down to national competent authorities.</p> <p>Noted; however, knowledge of professional associations and their codes of conduct/ethics are already explicitly referred to in the Report.</p>
9.	Federation of Finnish Financial Services	General Comment	<p>The Federation of Finnish Financial Services (the FFI) holds the view that the satisfactory level of knowledge and ability of all sales persons in the financial services is of crucial importance. The financial institutions compete with each other with good quality sales processes. Clients are more and more asking for good service. The requirements for the regulatory compliance are all the time getting tougher because of the growing and complex regulatory scheme in financial services. In addition, the supervisory authorities put more emphasis on the fulfilment of conduct of business rules and good quality sales processes.</p>	Noted.

10.	FFSA	General Comment	<p>First of all, the FFSA would like to stress that knowledge and ability requirements for distributors of insurance product, is an important issue regarding enhancement of consumer protection.</p> <p>In France, the professional training's issue for insurance distributors is not a new one. This topic is regulated by an increasing series of rules included in the French insurance code (see art. L112-5 and R512-8 and following) or agreed at professional level between the FFSA and the professional association of insurance intermediaries.</p> <p>The FFSA would however like to draw attention to the costs involved by professional training for insurance undertakings and intermediaries. In this regard, the FFSA insists on the necessary proportionate approach which should be adopted/confirmed at EIOPA's level. The report should stress a proportionate approach in order to adapt the principles contained in the report to the scope of the distributor's activity: the requirements regarding professional training for an intermediary who sells insurance which is complementary to the goods or services supplied in the framework of this principal professional activity, should not be at the same level as requirements for insurance distributors exercising insurance intermediation on a principal basis. Furthermore, regarding the scope of the draft report, a lot of persons could be required to meet "knowledge and ability" under IMD1 and especially IMD2 (including claims management). The report should absolutely allow flexibility in order to take into account the activity of each category of insurance distributors.</p> <p>The IMD2 legislative proposal is currently under negotiation and therefore is subject to change; the FFSA is keen to see EIOPA's awareness that this draft report does not intended to pre-empt the on-going discussions concerning the IMD proposal where Article 8.8 empowers the EU Commission to adopt delegated acts regarding the issue of professional training of insurance intermediaries.</p>	<p>Noted.</p> <p>Agreed re costs of training. However, it is also worth noting that consumers can also experience significant financial losses when being mis-sold a product due to lack of training on the part of the distributor.</p> <p>Noted regarding ancillary business. The Report has been amended to refer to ancillary business and to give more prominence to the principle of proportionality.</p> <p>Agreed, hence paragraph 2.2.4. refers to the possibility to adapt high-level principles according to the different categories of persons carrying on insurance mediation.</p>
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			Finally, we are in the opinion that good supervisory practices regarding professional training's issue for distributors should be dealt within the framework of ESAs Joint Committee in order to ensure cross-sectoral level playing field in this area.	Noted re need for cross-sectoral work on this issue.
11.	German Insurance Association	General Comment	<p>The German insurance industry</p> <ul style="list-style-type: none"> <input type="checkbox"/> considers adequate knowledge and ability requirements for distributors of insurance products to be an indispensable component of effective consumer protection; <input type="checkbox"/> supports the proposal made by the EU Commission on the recast of the Insurance Mediation Directive (IMD2) according to which insurance intermediaries shall update their knowledge and ability through continuing professional development; <input type="checkbox"/> however, rejects the EU Commission's proposal to empower the Commission to adopt delegated acts with respect to appropriate criteria for determining the level of professional qualifications as stipulated in Article 8(8), IMD2; <input type="checkbox"/> explicitly welcomes the vote of the competent ECON Committee in the European Parliament according to which only the Member States shall be entitled to set up appropriate criteria for determining the level of professional qualifications; <input type="checkbox"/> supports EIOPA's approach to take account of the requirements of the European Qualification Framework (EQF) as well as of the existing initiative on a sectoral qualifications framework of the European Financial Certification Organisation (eficert), which may serve as basis for mutual recognition of the qualifications of insurance intermediaries of the Member States, when determining best practices. 	<p>Noted.</p> <p>EIOPA has focussed on knowledge and ability and updating requirements in this Report as opposed to the level of qualifications of distributors or the process of mutual recognition of qualifications (where distributors move to another Member State and apply for a new registration), which could be considered in a second stage. EIOPA's survey of national knowledge & ability requirements in 2012 indicated limited occurrence of requests to national competent authorities by distributors for mutual recognition of qualifications.</p>
12.	I.K. Rokas & Partners Law Firm	General Comment	I. K. Rokas & Partners is a Law Firm established in Greece and in the Central and South-eastern Europe, specialising in insurance law. We appreciate the opportunity to provide comments to EIOPA on the CP 13/016.	Noted.

			<p>As highlighted in the Draft Report, the selling of insurance products in the best interests of the consumers not only requires distributors' knowledge of technical aspects of such products, but also a certain manner in which such knowledge is applied. EIOPA acknowledges that IMD2 proposal extended the scope of the existing knowledge and ability requirements to a result-oriented obligation according to which distributors' knowledge and ability are necessarily linked with product complexity. In the light of this acknowledgement, we would like to provide specific comments to EIOPA with regard to the following issues:</p> <p>C 1. Third country online insurance intermediaries</p> <p>C 2. Bancassurance</p> <p>C 3. Distributors' post sale duty to provide updated information</p>	<p>Noted. The Report has been amended to explicitly recognise the fact that, in some jurisdictions, the issuance by a competent authority of licences or permissions for distributors to mediate complex products (such as insurance investment products) is contingent on the distributor having higher or more specialised qualifications and experience.</p>
13.	Insurance Europe	General Comment	<p>Insurance Europe is supportive of the general intention to enhance consumer protection in the EU and to have high-level principles regarding knowledge and ability requirements which allow Members States to specify the knowledge and ability requirements according to the particular activity pursued.</p> <p>However, we are concerned that this proposed initiative from EIOPA seems to pre-empt legislative discussions on IMD2. The relevant provisions in the European Commission's IMD2 proposal that cover knowledge and ability have not yet been finalised and are still subject to change. It is also not clear if the Commission will actually gain powers under IMD2 to develop further standards in this area or not. As a result, it might be sensible to postpone any initiatives in this area until the appropriate legal text (i.e. IMD2) has been finalised. The unintended outcome of promoting supervisory convergence now could be that if the European Commission later receives</p>	<p>We are not seeking to pre-empt IMD2 discussions. This is about fulfilling a mandate under our empowering legislation by promoting common supervisory approaches and practices.</p> <p>The Report contains high-level principles which are non-binding so they would be overridden by IMD2 and any delegated acts or binding technical standards adopted by the Commission in that area.</p>

		<p>powers to set knowledge and ability standards under IMD2, such standards could be at odds with EIOPA's report and good practices, which are being developed before IMD2 has been finalised.</p> <p>Moreover, it is important to recognize the diversity of insurance distribution markets across member states and any possible future requirements or good practices must be very flexible to accommodate this diversity. There are crucial differences between Member States' insurance markets and training systems and no one solution fits all markets. Good supervisory practices should be maintained on a national level and conform to the traditions of continuous professional development (CPD) in each member state. Requiring companies to adhere to the same requirements will not result in improved consumer protection and instead can lead to unnecessary administrative burden on companies.</p> <p>While the knowledge requirements of those involved in the selling of insurance products are important, the regime governing this should be proportionate to their role and to the risks associated with the products they sell. It is unlikely that individuals selling straightforward insurance products on an advised or non-advised basis will need a formal qualification, although they should be expected to understand the product, its features and be able to explain these to the customer.</p> <p>It is therefore important to introduce proportionality into the application of the practices, in particular based on the scope of the activities of the distributor. This would allow, for instance, adapting the requirements to whether the sale of insurance products is their principal activity or ancillary. In addition, the growing number of insurance sales conducted online in some member states means that national regulators must have flexibility to set different types of qualification requirements, in order to cater for non-traditional business models or sales where an individual is not actually involved in the process. This is even more important as professional training comes at a</p>	<p>Disagree, we are of the view that high-level principles in this area can help to promote more common supervisory approaches and enhance consumer protection.</p> <p>Agreed, hence paragraph 2.2.4. refers to the possibility to adapt high-level principles according to the different categories of persons carrying on insurance mediation. Regarding ancillary business, the Report has been re-drafted to refer to ancillary business and reinforce the proportionality principle.</p>
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			<p>cost. Imposing inappropriate and non-proportionate requirements will add unnecessary costs and burden to the distribution channels, and this may result in the reduction of the number of points of sale, to the detriment of consumers who will have reduced choice of providers and more expensive premiums.</p> <p>Furthermore, it is proposed to apply these requirements also to the staff of insurance undertakings. It should be noted that professional requirements are met by insurance undertakings and their staff in a variety of different ways, such as under Solvency II and national labour law. Insurance companies are responsible for training their employees and they design their own training programmes. This is consistent with CEIOPS' advice to the European Commission recommending that it should be the responsibility of the insurance undertaking to check the qualification of its employees, which would meet the need for a proportionate, risk-based approach avoiding creating an unnecessary administrative burden.</p>	<p>Agreed, hence the reason the Report states that some supervisory authorities permit an insurance undertaking or insurance intermediary, which has full responsibility for a natural or legal person conducting insurance mediation, to conduct oversight of that persons' CPD.</p>
14.	Insurance Sweden	General Comment	<p>Insurance Sweden (the industry organisation for insurance companies representing more than 90 per cent of the Swedish insurance market) supports the intention to have high-level principles regarding knowledge and ability requirements for distributors of insurance products. The right knowledge and ability is vital when it comes to retail distribution to consumers.</p> <p>Insurance Sweden is concerned that too little attention has been given to the fact that when the scope of IMD2 will expand to include all distribution channels and all employees involved in distribution of an insurance undertaking instead of just insurance intermediation by intermediaries, the supervision gets more complex and new considerations will have to be considered. The aim of the supervision has to be clear and overlapping regulations like Solvency 2 must be regarded.</p>	Noted.
15.	Leaseurope	General Comment	<p>Leaseurope</p> <p>As a Federation, Leaseurope brings together 44 Associations</p>	Noted

			<p>throughout Europe representing either the leasing, long term and/or short term automotive rental industries. The scope of products covered by Leaseurope's members ranges from hire purchase and finance leases to operating leases of all asset types (automotive, equipment and real estate) and also includes the rental of cars, vans and trucks. It is estimated that Leaseurope represents approximately 92% of the European leasing market. More information on Leaseurope and its members can be found at www.leaseurope.org</p> <p>Leaseurope welcomes the opportunity to response to this consultation paper on 'A Draft Report on Good Supervisory Practices regarding knowledge and ability requirements for distributors of insurance products'. This consultation is of particular relevance for leasing and vehicle rental companies, as they distribute insurance product in addition to their primary activity which consists of the provision of a lease or the rental of a vehicle.</p>	
16.	MACIF	General Comment	<p>MACIF favours a convergence, and possibly a mutual recognition system of professional qualifications across the EU.</p> <p>MACIF supports also the proposal by the European Commission to relate the level of knowledge and ability requirements of distributors of insurance products to the complexity of the insurance products (Article 8 of draft IMD2).</p>	Noted. The Report has been amended to explicitly recognise the fact that, in some jurisdictions, the issuance by a competent authority of licences or permissions for distributors to mediate complex products (such as insurance investment products) is contingent on the distributor having higher or more specialised qualifications and experience.
17.	Nordic Financial Unions (NFU)	General Comment	<p>NFU welcomes the possibility to reply to the EIOPA consultation paper on knowledge and ability requirements for insurance distributors and supports the aim of developing good supervisory practices in this field to prevent regulatory arbitrage.</p> <p>We believe that clarifying and strengthening knowledge and ability requirements will ensure that the employees feel more secure in a sales and advice situation, which also ameliorates</p>	Noted.

			<p>the health and safety situation at the workplace.</p> <p>Currently insurance undertakings and their staff meet knowledge and ability requirements in a variety of different ways, such as under national labour law. Harmonisation is important to ensure that there is a level playing field in place; however, efficient national structures should not be undermined by any new EU-level standards. Therefore, the clarification under 2.3.2 is welcome.</p> <p>NFU has proposed amendments to Recital 22 and Article 8.1 in the IMD II proposal which correspond to the in plenary adopted Recital 52b and Article 25 in MiFID II. These stress the need to ensure that a sufficient level of qualifications must be ensured for staff providing insurance policies and that continuous training and competence development must be the responsibility of the company and not the individual employee.</p>	<p>Agreed, hence the reason we are proposing high-level principles.</p>
18.	RSA Insurance Group plc	General Comment	<p>We support the approach of listing good supervisory practices as high level principles directed at competent authorities for supervising knowledge and ability obligations in relation to IMD1 (and in due course IMD2). This allows Member States to adopt a proportionate and tailored approach to how supervisory practices are applied in their territory.</p> <p>We also agree with the broad range of knowledge and abilities listed in the report as relevant for intermediaries. Of particular importance is that the knowledge and ability is tailored to the role of each intermediary and this is clearly included as part of the supervisory guidance.</p> <p>In relation to CPD, whilst we agree that this is important, we feel the approach proposed by EIOPA is too prescriptive and implies the establishment of extensive oversight activities. We do not believe that the proposals as described would meet proportionality requirements or pass a cost benefit analysis.</p> <p>Overall, whilst the report on supervisory practices contains much that we support, we believe there is a need to reconsider the proposals in relation to CPD as we believe these go beyond</p>	<p>Noted.</p> <p>Agreed, paragraph 2.2.4. refers to the possibility to adapt high-level principles according to the different categories of persons carrying on insurance mediation.</p> <p>Disagree. We only suggest that there should be “appropriate oversight” and provide some indicative examples. We do not prescribe a particular form of oversight.</p>

			what is required.	
19.	Standard Life Assurance Limited	General Comment	Standard Life Assurance Limited would welcome the changes proposed in the consultation paper.	Noted.
20.	The Chartered Insurance Institute	General Comment	<p>About the Chartered Insurance Institute</p> <p>The CII is the world's leading professional organisation for insurance and financial services, with over 112,000 members in 150 countries. It includes the Personal Finance Society, the UK's largest professional organisation for financial advisers and those in related roles, with over 34,000 members. Our Charter remit is to protect the public by guiding the profession. We are committed to maintaining the highest standards of technical expertise and ethical conduct in the profession through research, education and accreditation.</p> <p>Our overall views towards this process</p> <p>The Chartered Insurance Institute welcomes EIOPA's initiative on developing EU-wide standards for insurance training. It reflects the wider regulatory focus towards professional conduct and ethical behaviour, in which voluntary efforts like the Aldermanbury Declaration and Chartered status leave the UK well placed. We support proper training and qualifications for staff who interact directly with customers and would expect similar standards to be adhered to by independent intermediaries, such as insurance brokers. The report goes a long way to helping to achieve this:</p> <ul style="list-style-type: none"> <input type="checkbox"/> it confirms that professional standards are on the European and even global financial regulation agenda; <input type="checkbox"/> it validates the view that better qualifications, knowledge and ability, ethics and continuing professional development (CPD) can contribute to attaining regulatory objectives such as better consumer protection and outcomes; <input type="checkbox"/> it acknowledges the importance of on-going learning, and sets out a view that professional experience is not 	Noted.

			<p>sufficient to indicate appropriate conduct and behaviours;</p> <p><input type="checkbox"/> it recognises the role of professional bodies in providing oversight of CPD, however there should be more reference to this role in delivering other aspects of knowledge and ability as well; finally</p> <p><input type="checkbox"/> the number of CPD hours (30 hours over a 3-year reporting period) is very minimalist by CII standards but nevertheless is a step in the right direction.</p>	
21.	UK Institute and Faculty of Actuaries	General Comment	<p>The Institute and Faculty of Actuaries (IFoA) is the UK based chartered professional body for actuaries. The IFoA has 25,000 members, 40% of our membership is based outside of the UK. The IFoA regulates its individual members and is responsible for regulating a small number of actuarial firms.</p> <p>The Financial Services & Markets Act 2000 (FSMA), which governs all financial services in the UK, has provisions which allow some professional organisations to act as a "Designated Professional Body" (DPB). The IFoA is one of these DPBs. The FSMA provisions allow the IFoA to authorise approved actuarial firms to carry out certain regulated activities, which then exempts those firms from the requirement to seek authorisation from the Financial Conduct Authority (FCA). The IFoA currently licenses 24 actuarial firms in its role as a DPB. The IFoA's comments have focused on our role in regulating actuaries and the firms that the IFoA licence in accordance with the DPB regime.</p> <p>Overall, the IFoA welcomes the introduction of good practice principles and the aim of ensuring greater consistency of practice among regulators. However, the IFoA considers that it is vital that such proposals remain principles based and that there is sufficient discretion afforded to competent authorities. The IFoA also considers that a number of the proposals may be difficult to assess in practice.</p>	Noted.

			<p>The IFoA has the following more general comments in relation to proposal 1.1 Notion of “appropriate knowledge and ability” to complete tasks and perform duties adequately. The IFoA applies an ethical code (The Actuaries’ Code) to all of its members. The Actuaries’ Code sets out five core principles that actuaries are expected to observe in their professional lives. The principles most relevant to this consultation document are Principle 2 (Competence and care: members will perform their professional duties competently and with care) and Principle 5 (Open communication: members will communicate effectively and meet all applicable reporting standards).</p> <p>In addition, the IFoA publishes a DPB Handbook that all firms licensed by the IFoA are expected to comply with. This states that firms are expected to conduct their business “(ii) with appropriate knowledge, skill and care...”</p> <p>Paragraph 3.28 of the DPB Handbook provides the following:</p> <p>“A DPB firm shall not carry on any regulated activity unless it has a clear and complete understanding of the extent to which, and circumstances in which, it may undertake regulated activities. It must also have a sufficient understanding of the relevant legal and legislative framework, demonstrating proper regard to the technical and professional standards expected of it before carrying on any regulated activity.”</p> <p>As such, the IFoA considers that the proposals in 1.1 are largely covered by the Actuaries’ Code and the DPB Handbook.</p>	
22.	UNI Europa Finance	General Comment	<p>UNI Europa Finance welcomes the possibility to reply to the EIOPA consultation paper on knowledge and ability requirements for insurance distributors and supports the aim of developing good supervisory practices in this field to prevent regulatory arbitrage.</p> <p>We believe that clarifying and strengthening knowledge and ability requirements will ensure that the employees feel more secure in a sales and advice situation, which also improves</p>	Noted.

			<p>health and safety in the workplace.</p> <p>Currently, insurance undertakings and their staff meet knowledge and ability requirements in a variety of different ways, such as under national labour law. Harmonisation is important to ensure that there is a level playing field in place, however efficient national structures should not be undermined by any new EU-level standards. Therefore the clarification under 2.3.2 is welcome.</p> <p>UNI Europa Finance has proposed amendments to Recital 22 and Article 8.1 in the IMD II proposal which correspond to the in plenary adopted Recital 52b and Article 25 in MiFID II. These stress the need to ensure that a sufficient level of qualifications must be ensured for staff providing insurance policies and that continuous training and competence development must be the responsibility of the company and not the individual employee.</p>	
23.	Insurance and Reinsurance Stakeholder Group (IRSG)	Q1.		
24.	Allianz SE	Q1.	<p>The EIOPA report illustrates existing different education systems throughout European Union. From our point of view, it should also consider studies and experience of existing institutions as the European Qualification Framework (EQF) and the European Financial Certification Organisation (eficert) when carving out details of Good Supervisory Practices regarding knowledge and ability requirements for distributors of insurance products. Not convergence as unification of national training systems should be the target of Good Practices standards, but comparability of the outcome and cross approval of this outcome.</p>	<p>Noted. We are not proposing convergence of national training “systems”, but rather high-level principles regarding knowledge and ability requirements for distributors of insurance products. The Report uses the terms “knowledge and ability”, rather than the terminology used in the European Qualifications Framework (EQF) as “knowledge” and “ability” derive from an existing EU Directive, IMD1, which relates specifically to distributors of insurance products whereas the EQF is based on a non-binding Recommendation from the Commission which relates to lifelong</p>

				learning in the whole EU employment market.
25.	ANASF	Q1.	<p>Yes, we believe that the report proposed by the Authority fully address the different aspects related to the level of knowledge and skills that insurance distributors must have.</p> <p>We also agree that an average knowledge of the technical aspects of an insurance product is not sufficient to ensure the best interest of the consumers. It is also necessary to apply the acquired knowledge in an appropriate manner. Only a combination of both knowledge and ability enables a distributor to really understand and comprehend the demands and needs of a customer.</p>	Noted.
26.	Association of International Life Offices (AILO)	Q1.	In principle "yes", however we believe that particular consideration should be given to the application of the practices to cross-border mediation activities.	Noted.
27.	BEUC	Q1.	<p>In our view, the report should pay closer attention to the issue of how knowledge and ability requirements for intermediaries can be used to deal with the issue of conflicts of interest. In the last few years, there have been a series of mis-selling scandals related to insurance. The most notable one, is the wide-spread mis-selling of payment protection insurance in the United Kingdom but there have been scandals across the European Union. Several examples can be found in the BEUC position paper on the recast Insurance Mediation Directive.² At the root of many of these scandals is the issue of incentivisation of staff involved in insurance mediation. It is important that knowledge and ability requirements address this issue by emphasising the importance of the consideration of the needs of the consumer.</p> <p>We would also like to take this opportunity to highlight the necessity to also apply the same knowledge and ability to the distribution of insurance products complementary to the supply</p>	<p>Noted, although the Report is intended to deal with knowledge and ability requirements for distributors and not conduct of business obligations, although as noted in paragraph 2.3.2, conduct of business of business regulation also plays a crucial role.</p> <p>Noted, in particular with regard to the scope of the proportionality principle</p>

			<p>of goods where the annual premium is below €600.</p> <p>The importance of such a measure is demonstrated by the example of the mis-selling of insurance to protect against the theft of a mobile phone sold when purchasing the device. The consumer is usually not aware that this insurance applies only in case of theft with violence; if the thief has extracted the mobile phone from your pocket or your bag without your knowledge, the insurance does not protect the policyholder. This is almost never explained to the consumer before subscribing to this insurance. This is the same in case of damages to the device: numerous exclusions are not detailed to consumers when taking out the insurance contract. A recent survey published by our French member¹ UFC Que Choisir shows that the commissions for the distribution of mobile phone insurance reach an average of 55% as well as that those insurance are almost always unnecessary useless due to the limited risks covered and the numerous exemptions.</p>	<p>Noted, although EIOPA also notes that mis-selling of mobile phone insurance may also be due to poor disclosure of product/contractual information as well the level of poor training of distributors.</p>
28.	BIPAR (the European Federation of Insurance Intermediaries)	Q1.	<p>One of the aspects that may be considered is to broaden the scope of the draft Report to distributors of insurances that (may continue and) fall outside the scope of IMD (I or II). Should it not be a very general rule that high level training and knowledge requirements are applicable to all distributors of insurances, irrespective if they fall under the scope of the IMD or not?</p> <p>Every consumer who is in contact with someone who carries on an intermediation or distribution activity should have the right and certainty that he or she is in contact with someone who has the knowledge and ability necessary for the performance of his or her duties. This is one of the reasons why BIPAR in the IMD II discussions, is in favour of a wide and activity- based scope with only very limited exceptions.</p> <p>BIPAR also suggests starting to think about requirements to which the staff of the competent authorities in charge of the</p>	<p>Noted. See para. 2.2.4:</p> <p>Noted. The issue of the standards/governance of training bodies</p>

			supervision or implementation of training and knowledge requirements need to comply. With regard to the exam system, if any, it has to be noted that Member States should retain full discretion but that it would be appropriate for the board of examiners, in relation to technical subjects, to be composed of specialists in the field.	may be considered by EIOPA in a second stage.
29.	eficert (European Financial Certification Organisation)	Q1.	<p>This report includes important points we agree upon in respect of the needs of CPD and some instruments of measuring achieved assets. Surveillance belongs according to our opinion to national supervisory bodies especially in the context of education and training.</p> <p>We clearly missed statements about who gets the responsibility to define appropriate knowledge and CPD according to high-level principles. It is crucial to delegate those definitions to mainly concerned national organisations/institutions of educational and vocational training.</p> <p>Another issue we certainly missed is a definition of a qualification level, which is especially important to mutual recognition of different national qualifications. We refer to level 3 of the European Qualification Framework established under the recommendation of the European Parliament and Council of 23 April 2008 on the establishment of the European Qualifications Framework for lifelong learning as demonstrating that an insurance or reinsurance intermediary meets the requirements of knowledge and ability, which are a condition of registration in accordance with IMD2.</p>	<p>Noted.</p> <p>Noted. EIOPA has focussed on knowledge and ability and updating requirements in this Report as opposed to the level of qualifications of distributors or the process of mutual recognition of qualifications (where distributors move to another Member State and apply for a new registration), which could be considered in a second stage. EIOPA's survey of national knowledge & ability requirements in 2012 indicated limited occurrence of requests to national competent authorities by distributors for mutual recognition of qualifications.</p>
30.	Eurofinas (The European Federation of Finance House Associations)	Q1.	<p>In addition to the issues considered by EIOPA we believe that two additional issues deserve further consideration.</p> <p>First, we believe that the issue of proportionality deserves greater consideration. As already mentioned, we believe it is key that any supervisory regime is proportionate and takes into account the nature, the size and operational characteristics of insurance distributors.</p> <p>Second, though we appreciate that it is a wider debate, we feel</p>	<p>Noted. Para. 2.2.4 states that the Report contains high-level principles with the aim of allowing flexibility for a proportionate approach both at the outset and on an on-going basis.</p>

			it is difficult to disconnect the training of staff/insurance distributors from consumers' education/ financial literacy. In this context, we think that national supervisors should be encouraged to enhance financial literacy.	Noted. We refer in para. 2.3.2 the importance also of financial literacy for consumers.
31.	European Federation of Financial Advisers and Financial Intermediaries (FECIF)	Q1.	The report addresses the most relevant issues. In addition, EIOPA should consider the aspect of staffing. For intermediaries, it becomes more and more difficult to attract new salespersons. Our members need a legal "rookie" facility for their beginners in order to offer them extra occupational training and education. So far, only certified advisers who already own the licence of their home country are allowed to sell to clients. Financial advice is not only a matter of theory, but also of social competence which can be only achieved by learning on the job. It must be possible for intermediaries to cooperate with novices for a certain time while supervising their activities during the period of education.	Noted regarded needed for mentoring/apprenticeship scheme for distributors.
32.	FFSA	Q1.	<p>For the FFSA, EIOPA's proposals regarding adequate knowledge and ability (see point 3) should constitute a common set of rules for all insurance products. In our opinion, the draft report is too investment insurance oriented, which is not always relevant for the distribution of all other insurance products (see our comments below).</p> <p>Furthermore, the report must be flexible enough:</p> <ul style="list-style-type: none"> - regarding ways of acquiring knowledge and abilities (for instance in France these different ways are: qualification/degree, professional experience or ad hoc professional training), - in order to allow intermediaries acting on special class/line of insurance or products to benefit from a special training adapted to the class of products they sell. <p>For the FFSA, the issue of Freedom of Services (FoS) and Freedom of Establishment (FoE) should be addressed in this report. Indeed we wonder what will be the applicable rules to insurance intermediaries exercising their activity on a cross-</p>	Noted. Under Article 4(1), IMD1, competence for determining whether

			<p>border basis (FoS or FoE). Will these intermediaries have to fulfil with home or host State requirements regarding knowledge/ability and Continuous Professional Development (CPD)? This point shall be clarified in the draft report.</p> <p>Generally speaking, it is important to ensure convergence between any future EIOPA's recommendations and existing insurance markets practices and avoid undue administrative burden and costs.</p>	<p>insurance intermediaries possess appropriate knowledge and ability is determined by the <u>home</u> Member State of the intermediary.</p>
33.	German Insurance Association	Q1.	<p>The EIOPA Report addresses the key issues of training and professional development and of the recognition of qualifications of other Member States. However, when differentiating between "knowledge" and "ability", it does not take account of the matrix and descriptors which have become part of the standard repertoire of qualified training providers in the European insurance industry after the European Qualification Framework (EQF) had been implemented. It would be more appropriate to differentiate according to the descriptors "knowledge", "skills" and "competence", for instance, and to use the eight levels of the European Qualification Framework (EQF), which are structured in a hierarchical way, to describe skills profiles with respect to distribution channels, scope and depth of the mediation process and the respective customer groups.</p> <p>EIOPA should also take account of existing initiatives in this context. For more than ten years, the European Financial Certification Organisation (eficert) e.V. has been working on the development of a sectoral qualifications framework for the European insurance industry, which has already been accepted and recognised in many Member States and in Switzerland. Eficert has its own website www.eficert.org, which describes the objectives of the organisation as well as the results which have been achieved so far. As a result, the question arises whether and to what extent EIOPA wants to develop the skills requirements for insurance intermediaries and distribution channels itself or whether and to what extent – in case EIOPA</p>	<p>Noted. The Report uses the terms "knowledge and ability", rather than the terminology used in the European Qualifications Framework (EQF) as "knowledge" and "ability" derive from an existing EU Directive, IMD1, which relates specifically to distributors of insurance products whereas the EQF is based on a non-binding Recommendation from the Commission which relates to lifelong learning in the whole EU employment market.</p> <p>EIOPA would like to develop training standards for the industry in a second stage, in accordance with its mandate under Article 9 of its empowering Regulation.</p>

			<p>is in charge of it – it wants to take account of existing industry-wide professional European initiatives.</p> <p>The objective of such a development should not be the harmonisation of national professional training of insurance intermediaries but the display of these qualifications on the EQF matrix. This way, mutual recognition of the professional qualifications of insurance intermediaries would become less bureaucratic when intermediaries move to a host Member State and transnational mobility would be strengthened in terms of the freedom of services and the freedom of establishment.</p>	<p>EIOPA views mutual recognition (where an intermediary cancels his registration in one Member State, moves to another Member State and re-registers) as different from cross-border business under FoS or FoE.</p>
34.	I.K. Rokas & Partners Law Firm	Q1.	<p>C 1. Within the framework of ensuring cross-sectoral consistency in the financial sector, we would like to suggest an aspect which EIOPA may consider as regards online insurance intermediation activities provided by intermediaries established in third countries and in connection with page 22 of the Draft Report. There it is mentioned that EIOPA considers it a good supervisory practice for a competent authority to provide that distributors have appropriate knowledge and ability (where it is relevant to their role) of the markets and the market participants.</p> <p>Art. 1 par. 3 sec. a and b of IMD 2 (which remains unchanged) provides that the scope of the Directive does not cover insurance mediation services provided in relation to risks/commitments outside the Union, neither shall it affect a Member State's law in respect of insurance mediation business pursued by third country intermediaries operating on its territory under the "principle of freedom to provide services", provided that equal treatment is guaranteed to all persons carrying out or authorised to carry out insurance and reinsurance mediation activities on that market.</p> <p>To define the persons which will be subjected to supervision within the scope of IMD 2 it is useful to seek recourse in the criterion set under recital 74 of the MiFID 2 proposal and expressly exclude third country intermediaries which supply their services to Union recipients only upon the exclusive</p>	<p>Noted.</p>

			initiative of such recipients (also defined as “correspondence insurance” in the Code of Liberalisation of current invisible operations of the OECD, 2013). Further, as regards online sales, to lay down the criteria evidencing that they receive intermediation services by third countries’ insurance comparison websites only upon the recipients’ exclusive initiative. Also, as far as investment insurance products are concerned, it is mentioned in recital 42 of the IMD 2 that it is important that retail investment products are subject to the same conduct of business standards in order to deliver consistent investor protection and avoid the risk of regulatory arbitrage. Therefore, applying the criterion of recital 74 of MiFID 2 would align the approach towards insurance investment products regulated by IMD 2 with the approach towards investment products regulated by MiFID 2.	
35.	Insurance Europe	Q1.	We believe that the issue of freedom of services and freedom of establishment should be addressed in this report in order to clarify the rules applicable to insurance intermediaries exercising their activity on a cross-border basis (FOS/FOE). It is currently unclear whether such intermediaries would have to comply with home or host state requirements regarding knowledge/ability and CPD. However, we recognise that there are strong arguments for a systematic approach towards mutual recognition of knowledge/ability based on the principles of the European Qualification Framework (EQF).	Noted. Under Article 4(1), IMD1, competence for determining whether insurance intermediaries possess appropriate knowledge and ability is determined by the <u>home</u> Member State of the intermediary.
36.	Insurance Sweden	Q1.	Insurance Sweden has identified at least three relevant issues that need to be addressed regarding insurance undertakings. As all distribution will fall under the IMD2, then the issue of what distribution to be included under supervision has to be addressed? Should it only be retail distribution direct to consumers or a wider scope or all distribution? Different distribution channels require different knowledge and ability. It is relevant to know if all distribution, including group insurance and other collective agreements, business insurance, second pillar occupational pension plans etc. will be included.	The objective of the Report is only to set down high-level principles and as paragraph 2.2.4 states, it allows for the possibility to adapt high-level principles according to the different categories of persons carrying on insurance mediation both at the outset and an on-going basis.

			<p>As all distribution will fall under the IMD2 scope, then the persons involved in intermediation activities (especially since the IMD2 will expand the meaning of intermediation) within an insurance undertaking will be considerable. It must be addressed how to limit this group of employees to a reasonable proportion.</p> <p>The requirement on knowledge and ability differs regarding type of product, type of distribution and type of customer. If the requirements are to be meaningful even on a high level than it is necessary to address the differences between life and non-life insurance, investment and risk insurance and business and car or home insurance etc.</p>	<p>Noted. The Report has been amended to explicitly recognise the fact that, in some jurisdictions, the issuance by a competent authority of licences or permissions for distributors to mediate complex products (such as insurance investment products) is contingent on the distributor having higher or more specialised qualifications and experience.</p>
37.	Leaseurope	Q1.	<p>It would appear that this Draft Report addresses many issues, however the general approach employed throughout fails to take into account:</p> <ul style="list-style-type: none"> (i) Intermediaries that distribute insurance products on an 'ancillary' or part-time basis, e.g. leasing and vehicle rental companies; and (ii) The elements of the insurance products being distributed e.g. knowledge and ability requirements that would be applicable for simple, low cost and easy to understand products. <p>Leasing Companies</p> <p>In certain cases when a leasing company offers a lease to a client some optional insurance products (which are always linked to the leased asset) are also offered. The most common optional insurance products chosen by clients include asset own damage insurance and asset protection insurance.</p> <p>These products are relatively simple (when compared to insurance investment products for example) and standardized. Additionally, it is important to re-emphasize that the offering of such insurance products is purely optional for the client.</p>	<p>Noted regarding ancillary business. The Report has been amended to refer to ancillary business and to give more prominence to the principle of proportionality.</p> <p>The Report has been amended to explicitly recognise the fact that, in some jurisdictions, the issuance by a competent authority of licences or permissions for distributors to mediate complex products (such as insurance investment products) is contingent on the distributor having higher or more specialised qualifications and experience.</p>

		<p>By offering the client such optional insurance products the leasing company creates a one-stop-shop facility for the client, where the chosen insurance products can be purchased easily and rapidly at the point of sale, in addition to providing the client with extra protection.</p> <p>Vehicle rental companies</p> <p>Vehicle rental companies are legally obliged to provide Third Party Liability Insurance when renting a vehicle to a client. In addition to this mandatory insurance vehicle rental companies also offer the client the option of availing of Personal Accident Insurance (PAI). On average only 10% of clients choose this optional insurance.</p> <p>By offering the client such an optional insurance product, the vehicle rental company creates a one-stop-shop facility for the client, where the chosen insurance product can be purchased easily and rapidly at the point of sale, in addition to providing the client with extra protection.</p> <p>Proportionality in terms of the complexity of the insurance products offered</p> <p>The insurance product(s) distributed by leasing and vehicle rental companies are much less complex when compared to insurance investment products for example. Thus due to this inherent simplicity and due to the part-time nature of such distribution, the notion of “appropriate knowledge and ability” outlined in the Draft Report is too detailed and complex.</p> <p>If the final Report were to maintain such a general approach, it would be unrealistic and disproportionate in practice for ‘ancillary’ intermediaries, in particular the detailed requirement for a vehicle rental staff member/leasing company staff member to spend 30 hours over a three year period in a classroom. Requiring detailed study of insurance aspects that are not applicable to the insurance mediation activities being conducted would be completely disproportionate to what is</p>	<p>The Report has been amended to explicitly recognise the fact that, in some jurisdictions, the issuance by a competent authority of licences or permissions for distributors to mediate complex products (such as insurance investment products) is contingent on the distributor having higher or more specialised qualifications and experience.</p>
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			actually required to enable those staff members to provide clear information to the client about what is in the final analysis simple and affordable optional insurance coverage(s).	Agree regarding need for proportionate approach as referred to in paragraph 2.2.4. However, the Report contains non-binding high-level principles.
38.	Nordic Financial Unions (NFU)	Q1.	<p>The report is very relevant and covers important issues.</p> <p>NFU believes that there is a need for harmonisation of the principles proposed with other fields of the financial industry since insurance products can be sold by employees also covered by MiFID. Educational demands should differ depending on what products that are being sold, who is selling them and who the customer is – with the product being the main factor. Geared towards a certain type of product, the basic principles should also include MiFID and PRIIPS to be specified in RTS or ITS. It is therefore important that this work is coordinated across the ESAs. This relates also to the timing of the issuance of the high-level principles which preferably should be joint general principles by the ESAs and thereafter specified by the individual ESAs. This is important as the customer being sold MiFID products might at the same time be sold IMD products.</p>	Noted re need to co-ordinate high-level principles on a cross-sectoral basis.
39.	RSA Insurance Group plc	Q1.	Yes	Noted
40.	Standard Life Assurance Limited	Q1.	<p>From a UK perspective, the proposals appear to sweep up areas of financial services that were not covered previously in the UK's Retail Distribution Review, for example pure protection insurances.</p> <p>We believe this would be a welcome move as it would result in having consistent standards applying across all aspects of the</p>	Noted, although the report does not differentiate knowledge and ability requirements according to the type of insurance products concerned.

			industry.	
41.	The Chartered Insurance Institute	Q1.	<p>Yes, for the most part the report covers the key issues for insurance distributor knowledge and ability. It describes "knowledge" and "ability" and includes references to ethical principles, CPD and professional conduct. It considers as "good supervisory practice" member states promoting professional conduct and ethical knowledge, and requiring minimum CPD. The report also asks that CPD be monitored and supervised. It also acknowledges the role of "a professional body not representing distributors" as well as national regulators in delivering this work.</p> <p>However this exercise should also take into account benchmarking against emerging global standards. Southeast Asia, India, Australia and the United States have passed legislation and set standards much quicker than in the EU and have set professional standards regulatory requirements for consumer-facing practitioners. For example, in India, the Insurance Regulatory and Development Authority (IRDA) has adopted minimum formal qualification as a benchmark licence to practise. In Singapore, the Monetary Authority of Singapore (MAS) is undertaking an exercise similar to the UK's recent review of the retail investment distribution market which includes a review of adviser professional qualifications.</p>	Noted. The focus of this Report is on promoting the IAIS' core insurance principles.
42.	UK Financial Services Consumer Panel	Q1.	<p>The Consumer Panel supports the clarification of practices for supervision of the professional knowledge and requirements of distributors of insurance products. Distributors of products must clearly have appropriate knowledge and ability to carry out their roles. However, in addition to this, the Panel would argue that it is not enough in itself to be able to demonstrate consideration of the best interests in the customer, but that the legislative structure must be designed to prevent, as far as is possible, conflicts of interest arising between the interests of the distributor and the interests of the consumer in the first place. Therefore the Panel believes that remuneration should</p>	Noted, but this is about conduct of business regulation, namely selling

			<p>be regulated in such a way that commission payments to distributors should be banned, as is now the case in the UK. Simply disclosing remuneration, regardless of the professionalism of the adviser, is not sufficient to prevent conflicts of interest from arising.</p> <p>The Panel, as a UK-based organisation, is providing input in the context of the UK's recent Retail Distribution Review (RDR) and as such would recommend consideration of aspects of the review which it firmly supported. In particular, we believe that NVQ Level 4 (as required by the RDR) is a minimum qualification for investment advisers and there is no argument for it to be reduced in any circumstances. We have also argued that Level 4 – the equivalent of First Year university – is not too arduous and is well below the expected professional qualification of an accountant or lawyer. Indeed, we have frequently expressed the view that Level 4 should only be a starting point and have welcomed, for example, the work by the Chartered Insurance Institute which promotes Level 6 and Chartered Financial Planner status as a good place for advisers to be in.</p>	<p>practices. As mentioned in para. 2.3.2, this is equally important but not the main focus of the Report.</p>
43.	UNI Europa Finance	Q1.	<p>The report is very relevant and covers important issues.</p> <p>UNI Europa Finance believes that there is a need for harmonisation of the principles proposed with other fields of the financial industry since insurance products can be sold by employees also covered by MiFID. Educational demands should differ depending on what products that are being sold, who is selling them and who the customer is – with the product being the main factor. Geared towards a certain type of product, the basic principles should also include MiFID and PRIIPS to be specified in RTS or ITS. It is therefore important that this work is coordinated across the ESAs. This relates also to the timing of the issuance of the high-level principles which preferably should be joint general principles by the ESAs and thereafter specified by the individual ESAs. This is important as the customer being sold MiFID products might at the same time be</p>	<p>Noted re need to co-ordinate high-level principles on a cross-sectoral basis.</p>

			sold IMD products.	
44.	Insurance and Reinsurance Stakeholder Group (IRSG)	Q2.	<p>EC proposal on IMD2 empowers Commission to adopt, inter alia, a delegated act to define the notion of knowledge and ability that is now extended to “those who pursue these activities on an ancillary basis, persons carrying on the activities of the professional management of claims, loss adjusting or expert appraisal of claims, and members of staff of insurance undertakings carrying out insurance mediation activities” and linked to “the complexity of the products they are mediating”.</p> <p>EC proposal on IMD2 demands the Commission to define the requirements of knowledge and ability with reference to the complexity of the products. IMD2 does not allow Member States and national supervisory authorities to adapt these requirements to the complexity of the products that each distributor can mediate. While the nature, scale and complexity of the activity carried out by the distributor is a profile other than the complexity of the products that distributor is mediating.</p> <p>Therefore, the IRSG invites EIOPA to consider if the current stage of the EC proposal on IMD2 allows the introduction of Good Supervisory Practices that link the notion of adequate knowledge and ability to complete tasks and perform duties adequately to the complexity of the product mediated.</p>	<p>Noted.</p> <p>The Report has been amended to explicitly recognise the fact that, in some jurisdictions, the issuance by a competent authority of licences or permissions for distributors to mediate complex products (such as insurance investment products) is contingent on the distributor having higher or more specialised qualifications and experience.</p>
45.	Allianz SE	Q2.	<p>The Report is helpful for the objective to promote the debate over knowledge and ability requirements for distributors of insurance products. We nevertheless do not see proposals for organisational structures that allow for cross approvals of graduations. From our point of view it is essential in so far that national graduations for the admission/license of intermediaries itself remain unchanged – this is at least substantial with respect to highly different national distribution channels throughout the European Union; with other words: the</p>	<p>Disagree: mutual recognition is not in the scope of this Report. EIOPA has focussed on knowledge and ability and updating requirements in this Report as opposed to the level of qualifications of distributors or the process of mutual recognition of qualifications (where distributors move to another Member State and apply for a new registration), which could be considered in a second stage. EIOPA’s</p>

			admission of intermediaries must be preserved as an exclusive national competence and therefore cannot be regulated or depend on guidance or similar by EIOPA. We refer to our remarks to Q 1: if common outcomes of the education process have been defined those outcomes should be accounted for in (national) education processes and should be under examination.	survey of national knowledge & ability requirements in 2012 indicated limited occurrence of requests to national competent authorities by distributors for mutual recognition of qualifications.
46.	ANASF	Q2.	<p>Yes, the Report may be useful to open a discussion and standardize the knowledge and skills required for different market participants, so that the customer is always protected.</p> <p>The competent authorities should ensure that the insurance distributors have the appropriate knowledge and ability to provide personal and suitable recommendations, to effectively communicate the terms and conditions of the contract in general, and in particular, to use a clear and understandable language, avoiding the jargon and technical terms, to ask the client appropriate questions in order to identify the profile, to explain the risks and benefits of a particular strategy or product to the customer.</p>	Noted
47.	Association of International Life Offices (AILO)	Q2.	<p>Yes, particularly as it is appropriate that the same requirement should apply to all types of distributor. However, as acknowledged by EIOPA there is currently much disparity across Member States, not only as to the level of knowledge but in some instances that required for particular types of mediation. For example personal general insurances, commercial covers and investment life and pensions products are all totally different and require different types and levels of ability and knowledge.</p> <p>The approach taken in some Member States which categorise at least some registration according to the type of mediation activity intended to be undertaken has merit and may be particularly relevant in the cross border context. For example, in the UK, it was a requirement pre-dating IMD1 for intermediaries active in selling life and pension products to be registered, unlike counterparts in general insurance. But, if</p>	Disagree: mutual recognition is not in the scope of this Report. EIOPA has focussed on knowledge and ability and updating requirements in this Report as opposed to the level of qualifications of distributors or the process of mutual recognition of qualifications (where distributors move to another Member State and apply for a new registration), which could be considered in a second stage. EIOPA's survey of national knowledge & ability requirements in 2012 indicated limited occurrence of requests to national competent authorities by distributors for mutual recognition of qualifications.

			State A has minimal and non-categorised requirements while State B has high level and categorised requirements for domestic intermediaries it would seem powerless to impose requirements on a State A passporting intermediary (other than any which would be permissible general good).	
48.	BEUC	Q2.	The report does make a helpful contribution to the debate regarding knowledge and ability requirements for insurance intermediaries. However, from a consumer point of view, this work should also be supported by an analysis of the current training standards for insurance intermediaries in all member states and how they are being monitored and enforced. The aspect of ethical treatment of customers should be given particular attention.	Noted: This has been addressed in a previous survey published by EIOPA in October 2012 Agree: EIOPA considers this aspect of ethical treatment to be covered under the definitions of both knowledge and ability
49.	BIPAR (the European Federation of Insurance Intermediaries)	Q2.	See our responses above. We wonder if there will be another consultation once IMD II is adopted? What will be the status of this report once IMD II is adopted?	Noted: this Good Practices Report is non-binding and is not subject to comply or explain. Therefore, EIOPA has no competence on enforcement measures as regards this good practices report. This will however be published before IMD2 is adopted and EIOPA will consider how to adopt and/or adapt any part of this report if and when requested by the Commission as part of potential delegated acts (as foreseen in the current COM proposal).
50.	Danish Employers Association for the Financial Sec	Q2.	The report provides a good overview of the topics which EIOPA finds important in terms of consumer protection in relation to IMD II and thus provide a basis for discussion on this topic. However, there is a lack of an industry angle in relation to documentation requirements, additional costs to consumers, confidence in long-term solutions, involvement of industry, great diversity in relation to national conditions as well as the lack of security and confidence that national authorities can adapt to local solutions. Paragraph 3	Disagree: this Good Practices Report is non-binding and is not subject to comply or explain. Therefore, it is up to Member States to implement any legal or regulatory act if deemed necessary, in accordance with national legislation. Stakeholder input is taken into account through public consultation and especially the IRSG contribution.

51.	eficert (European Financial Certification Organisation)	Q2.	<p>The report provides a good overview of the topics, which EIOPA finds important in terms of consumer protection in relation to IMD2 and thus provides a basis for discussion on this topic. However, there are concerns regarding the lack of educational perspective in relation to national situations and needs, which are crucial for future implementation.</p> <p>There is a need of collaboration with the European network organisation for insurance education and training (eficert), who gets the overview of the national educational systems of the insurance industry in Europe.</p>	Noted: this Good Practices Report is non-binding and is not subject to comply or explain. Therefore, it is up to Member States to implement any legal or regulatory act if deemed necessary, in accordance with national legislation.
52.	Eurofinas (The European Federation of Finance House Associations)	Q2.	<p>Eurofinas takes the view that the Draft Report is helpful in contributing to the debate on knowledge and ability of distributors of insurance products.</p> <p>Though we appreciate that appropriate disclaimers have been included in the document, we feel it is premature to envisage any of the proposed standards in the context of the IMD2.</p> <p>We think that initiatives in this field should not interfere with the formal European legislative process. Further actions should wait for the adoption of the IMD2.</p>	Disagree: the COM proposal on IMD2 is still under discussion and could still be largely modified. EIOPA therefore prefers to focus on good supervisory practices.
53.	European Federation of Financial Advisers and Financial Intermediari es (FECIF)	Q2.	<p>Yes, especially as it covers not only professional knowledge, but also ability and ethics. Currently education and training for any financial business focuses on knowledge (know-how) and neglects abilities (hands-on) - especially on how to communicate effectively with customers. Only a combination of both knowledge and ability enables a distributor to really understand and comprehend the demands and needs of a customer.</p>	Noted
54.	Danish Employers Association for the Financial Sector	Q2.	<p>The report provides a good overview of the topics which EIOPA finds important in terms of consumer protection in relation to IMD II and thus provide a basis for discussion on this topic. However, there is a lack of an industry angle in relation to documentation requirements, additional costs to consumers, confidence in long-term solutions, involvement of industry,</p>	Disagree: this Good Practices Report is non-binding and is not subject to comply or explain. Therefore, it is up to Member States to implement any legal or regulatory act if deemed necessary, in accordance with national legislation.

			great diversity in relation to national conditions as well as the lack of security and confidence that national authorities can adapt to local solutions. Paragraph 3.	Industry input is taken into account through public consultation and especially the IRSG contribution.
55.	Federation of Finnish Financial Services	Q2.	<p>Against the background described in the general comments, the FFI is supportive of the work to create high level principles for the knowledge and ability of persons working for different sales channels in the insurance sector. The FFI would like to point out however, that this should be done in priority in the field of the current Commission proposal on the review of the Insurance Mediation Directive (IMD2).</p> <p>In our response, we concentrate on commenting the future rules related to insurance agents and insurance companies' own sales staff.</p> <p>We find very important that the future directive, future EIOPA guidelines or high level principles do not establish detailed requirements for setting the level of knowledge and ability or a certain certification procedure in a Member State. Insurance companies should be responsible for setting their professional qualification requirements and monitoring them, because the companies are responsible for the competence of their sales employees and agents and for any mistakes that occur in the sales. The level of professional knowledge and ability should be set together with the national supervisor, taking into account the national specificities in training, compliance and monitoring systems. The same holds for the supervision of the continuous professional development.</p> <p>In FFI's opinion it is very important to preserve the right of insurance companies to make their own decisions on the recruiting and training of its employees and agents, because it is one of the prerequisites for free competition. In addition, the insurance company is directly liable for the actions of its' own sales staff and agents. For example the Finnish Insurance Contracts Act (543/1994), Section 9, imposes insurance companies with extensive responsibility for the information its employees and agents disclose in situations which concern the</p>	<p>Disagree: the COM proposal on IMD2 is still under discussion and could still be largely modified. EIOPA therefore prefers to focus on good supervisory practices.</p> <p>Noted: this good practices report is non-binding and is not subject to comply or explain. Therefore, it is up to Member States to implement any legal or regulatory act if deemed necessary, in accordance with national legislation.</p> <p>Noted, although this report does not deal with requirements as to who is responsible for the action of staff. It is up to Member States to implement any legal or regulatory act if deemed necessary, in accordance with national legislation.</p>

			<p>forming of insurance contracts. This provision ascertains that insurance companies see to the sufficient proficiency of their employees and agents.</p> <p>6. In addition, the FFI holds that the heavy obligations of investigating and verifying competence and reputation will lead to unnecessary administrative burden for insurance companies as well as for financial supervisors. We feel even the current registration process for insurance companies agents has created undue administrative burden for national supervisors and insurance companies, and this burden should not be added further.</p>	<p>Disagree: this good practices report is non-binding and is not subject to comply or explain. Therefore, it is up to Member States to implement any legal or regulatory act if deemed necessary, in accordance with national legislation.</p>
56.	FFSA	Q2.	<p>The FFSA supports EIOPA's approach contained in this report when it comes to contributing to the debate on appropriate knowledge and ability as far as consumers are concerned. For professional customers, we wonder whether this report is relevant. Moreover, in our opinion, reference to specific national issues should be deleted from this report which intends to develop European high level principles.</p>	<p>Disagree: European insurance requirements do not differentiate between categories of consumers. Therefore, this report lists general good practices applicable to all distributors and all consumers.</p>
57.	German Insurance Association	Q2.	<p>The Report is helpful in advancing the debate about the knowledge and abilities of insurance intermediaries. However, it does not clarify in which organisational structures the requirements for training and professional development and the principles of mutual recognition of professional qualifications shall be reflected in the future. According to the German insurance industry, EIOPA shall not exert any direct influence on the curricular requirements in the Member States with respect to training and professional development. The autonomy of national qualifications in the context of professional licensing of insurance intermediaries should not be affected by delegated acts as well as by the description of best practices in this Report. The decision of what kind of learning objectives and learning contents shall be developed for each target group with respect to the different statuses of insurance intermediaries shall be left to the Member States. Due to the</p>	<p>Noted: this good practices report is non-binding and is not subject to comply or explain. Therefore, it is up to Member States to implement any legal or regulatory act if deemed necessary, in accordance with national legislation.</p> <p>EIOPA has focussed on knowledge and ability and updating requirements in this</p>

			<p>variety and diversity of distribution channels in Europe, in particular, the development of uniform training guidelines would result in the fact that neither the requirements of the different markets nor the requirements of consumers will be met. It should rather be analysed in detail with respect to the different distribution forms and channels in which way, to what extent and at which depth the mediation process takes place.</p> <p>Nevertheless, irrespective of the different detailed requirements in the Member States, a transnational framework, which should be based on the principles of the EQF, would be imaginable with respect to mutual recognition of the qualifications of intermediaries when intermediaries move to a host Member State (see no. 1).</p>	Report as opposed to the level of qualifications of distributors or the process of mutual recognition of qualifications (where distributors move to another Member State and apply for a new registration), which could be considered in a second stage. EIOPA's survey of national knowledge & ability requirements in 2012 indicated limited occurrence of requests to national competent authorities by distributors for mutual recognition of qualifications.
58.	Insurance Europe	Q2.	<p>The report provides a good overview of the topics which EIOPA finds important in terms of consumer protection in relation to IMD2 and thus provides a basis for discussion on this topic. However, the insurance industry has concerns that the report does not adequately address the following issues:</p> <ul style="list-style-type: none"> <input type="checkbox"/> lack of an industry perspective in relation to documentation requirements, <input type="checkbox"/> additional costs to consumers, <input type="checkbox"/> confidence in long-term solutions, <input type="checkbox"/> diversity in relation to national conditions, and <input type="checkbox"/> lack of security and confidence that national authorities can adapt to local solutions. <p>We also question, in the case of examples that refer to specific national issues, whether such examples should give rise to high level principles at EU level. Furthermore, we believe that the report is too "insurance investment product" oriented.</p>	Disagree: this good practices report is non-binding and is not subject to comply or explain. Therefore, it is up to Member States to implement any legal or regulatory act if deemed necessary, in accordance with national legislation.
59.	Insurance Sweden	Q2.	Insurance undertakings are responsible for their employees conduct, knowledge and abilities. Many insurance undertakings have well developed well-functioning internal education	Noted: this Report does not deal with requirements as to who is responsible for the action of staff. It is up to Member

			<p>centres. Insurance Sweden is concerned that the high level principles will call for external independent education models only. Internal models must be recognized and accepted (relevant as well for question 4). There are advantages having the education indoors as it makes it possible to emphasize on the products that are distributed. Insurance undertakings differ from independent intermediaries as they only recommend their own products, if it is suitable to the customer.</p> <p>The variety of insurance undertakings distribution is not reflected in the report and distribution through channels that work on an ancillary basis is not considered in full. Insurance undertakings range from single product companies to full range (life and non-life) insurance companies. This is a major difference compared to insurance intermediation according to IMD1. The report needs further considerations in this aspect.</p> <p>Insurance Sweden has concerns about sanctions against employees of an insurance undertaking. If sanctions are considered then new considerations are necessary to handle conflicts with union law , employment contracts etc.</p>	<p>States to implement any legal or regulatory act if deemed necessary, in accordance with national legislation.</p> <p>Noted: from a consumer protection perspective, EIOPA considers that industry training standards should apply to all distributors, irrespective of the distribution channel. The Report has been amended to refer to ancillary business and to give more prominence to the principle of proportionality.</p>
60.	Leaseurope	Q2.	<p>This Draft Report does offer more clarity on what is meant by 'knowledge and ability'. In particular by outlining the aspects that are required in order to be equipped with such 'knowledge and ability', where it is of course relevant to the intermediary's role.</p> <p>Nonetheless the components required in order to possess such 'knowledge and ability' are very cumbersome and overly prescriptive. Such standards would impose unrealistic requirements for the vehicle rental staff member/leasing company staff member who distributes optional low cost, easy to understand insurance product(s) in an 'ancillary' capacity. More proportionality and indicators of 'relevance to the intermediary's role' would be useful.</p>	<p>Noted</p> <p>Disagree: This report lists "good practices" and does not impose any further requirement. The report is non-binding and is not subject to comply or explain. Therefore, it is up to Member States to implement any legal or regulatory act if deemed necessary, in accordance with national legislation.</p>

			<p>We fail to see the merit or added value in requiring ‘ancillary’ intermediaries to possess knowledge to the extent outlined in the Draft Report in relation to other market participants (point 3.3.4 on page 18 & 19 of the Draft Report relating to the demonstration of knowledge of professional associations, consumer representatives and actual and in-depth knowledge of the main characteristic of the different types of insurance products and where applicable their underlying financial instruments).. This type of knowledge will not make the intermediary any better at helping the client to make an informed choice.</p> <p>In relation to the on-going work on the Proposal for an IMD2 in the European Parliament, overall it is important for the differentiation to be maintained between intermediaries whose sole profession is insurance mediation and those that merely offer insurance mediation services in addition to their principal professional activity.</p> <p>In terms of the on-going Parliamentary debate regarding knowledge and ability in particular, it is essential that EIOPA’s final Report is consistent with the final version of the IMD2, in order to avoid fragmentation at Member State level, which was the original objective of the IMD2.</p>	<p>Disagree: from a consumer protection perspective, EIOPA considers that industry training standards should apply to all distributors. Moreover, knowing insurance market participants (especially the role of supervisory authorities) is a good means to have a comprehensive view of all applicable requirements to intermediaries acting on an ancillary basis.</p> <p>Agree: the COM proposal on IMD2 is under discussion and could still be largely modified. EIOPA therefore prefers to focus on good supervisory practices.</p>
61.	MACIF	Q2.	We trust this Report is most helpful in informing the debate over appropriate knowledge and ability requirements for distributors of insurance products (particularly, in the light of the current negotiation of the IMD2 proposal).	Noted
62.	Nordic Financial Unions (NFU)	Q2.	An important factor, acknowledged under 2.2.4, is to allow flexibility for member states. Especially since in the Nordic countries a high proportion of insurances are sold by insurance specific companies. Furthermore it needs to be ensured that efficient national structures are not undermined by the implementation of new standards.	Noted. It is for this reason that the report lists “good practices” in the form of high-level principles and does not impose any further requirement. The report is non-binding and is not subject to comply or explain. Therefore, it is up to Member States to implement any legal or regulatory act if deemed necessary, in

				accordance with national legislation.
63.	RSA Insurance Group plc	Q2.	Yes, albeit as professional requirements are part of the IMD2 developments, we believe it may have been better to postpone this consultation until there was clarity on the final shape of that directive.	Noted. The COM proposal on IMD2 is under discussion and could still be largely modified. EIOPA therefore prefers to focus on good supervisory practices.
64.	Standard Life Assurance Limited	Q2.	Yes, we believe the report is helpful. We would welcome the standards discussed in the paper becoming the industry requirement.	Noted
65.	The Chartered Insurance Institute	Q2.	Yes. The report helpfully defines "knowledge" to include market/professional experience but also very importantly includes "ethical principles", and defines "ability" as consisting of skills and competence with respect to business, but also "ethical behaviour/professional conduct, e.g. the ability to consider the best interests of the customer in relevant circumstances". Whereas previously the debate within regulatory settings concerning practitioner knowledge and ability focused on just technical expertise and experience, we have always said that knowledge and ability also has a conduct element. The EIOPA report recognises this, and we think this constitutes a very important step in creating a conceptual foundation underpinning future regulatory measures.	Noted
66.	UK Financial Services Consumer Panel	Q2.	The Panel recently responded to the European Parliament ECON Committee consultation on enhancing the coherence of European financial services legislation. In its response it highlighted a lack of coordination mechanisms to ensure that developments on IMD, MiFID and PRIIPs, including rules on sales standards and processes, were adequately coordinated. The setting of high level principles by EIOPA is a helpful initiative in this area.	Noted
67.	Insurance and Reinsurance Stakeholder	Q3.	In general terms, the IRSG agrees with the aspects of knowledge and ability as described in the draft report. However, the IRSG supports amendments to adapt the knowledge and ability to the complexity of the products as well	The Report has been amended to explicitly recognise the fact that, in some jurisdictions, the issuance by a competent authority of licences or permissions for

	Group (IRSG)		<p>as to the relationship established between distributor and customer.</p> <p>This is the case, e.g., of the principle under which distributors are requested to adapt the recommendation to the evolving consumer situation and needs. In addition, distributors are requested to have the ability to consider the best interests of the customer in relevant circumstances connected with concluding and executing the contract of insurance; despite that IMD1 refers to the adequacy of the product to meet the needs of the customer, and a reference to IMD2 is premature at this stage of the preparatory works on that proposal.</p> <p>The IRSG also highlights that the regime governing knowledge requirements of those involved in selling insurance products should be proportionate to their role and to the risks associated with the products they sell. This would allow adapting requirements to whether mediation is the principal activity or ancillary. The IRSG believes that imposing inappropriate and non-proportionate requirements will add unnecessary costs and burden to the distributor channels, and this may result to the detriment of consumers who will have reduced choice of providers.</p> <p>Finally, the IRSG supports a greater clarity with reference to the “knowledge of how to protect the customer and all parties to a transaction against fraud, misrepresentation or unethical practices in the area of business opportunities” because words like “transaction” and “business opportunities” are likely to be interpreted in a controversial way.</p>	distributors to mediate complex products (such as insurance investment products) is contingent on the distributor having higher or more specialised qualifications and experience.
68.	Allianz SE	Q3.	<p>We doubt that all of the high level principles and examples described in the report are suitable as they often are too abstract and vague to be “lived” and measured i.e. transposed into real live. Against this background we refer to existing parameters that should be taken into consideration.</p>	<p>Noted. The Report has been amended to make clear that the examples (which are purely indicative) should be relevant to the type of product/activity being mediated.</p>

69.	ANASF	Q3.	Yes, we believe that EIOPA has clearly identified the principles related to high level knowledge and skills.	Noted
70.	Association of International Life Offices (AILO)	Q3.	Yes, but see Q4	Noted
71.	BEUC	Q3.	<p>We suggest that the following requirements are added:</p> <ul style="list-style-type: none"> - Legal aspects: appropriate knowledge of the benefit system and other legal provisions which provide consumers with rights to financial compensation also covered under the proposed insurance policy e.g. in the case of travel insurance, rights under Regulation 2004 261/2004. - Disclosure and advice: knowledge and ability to deal with the requirements of financial excluded consumers - Disclosure and advice: knowledge and ability to explain the remuneration arrangements to the customer. 	Noted. Some of these aspects have been taken up in a revised version of the Report.
72.	BIPAR (the European Federation of Insurance Intermediaries)	Q3.	<p>See comments above.</p> <p>Based upon Article 4 of the IMD, there are specific training and qualification requirements in place in the various Member States which reflect these high level principles in the IMD I. These systems are adapted to the national general qualification systems (and education infrastructure) which are still very different in the Member States and therefore a high level approach, as in the current IMD , is indeed preferable.</p> <p>We believe however that the high level principles and the</p>	Noted. However, these are just presented

		<p>examples in particular go into too great a level of detail. For instance with regard to the requirement to have good understanding of contractual guarantees, it should be noted that terms and conditions will always be situation-specific. Another example that we believe is rather detailed and subjective is the ability to address one's tone, manner and style to the intended audience (3.3.6., p 21).</p> <p>Furthermore, we have concerns about point 3.3.5 which refers to the "best interest" of the consumer and point 3.3.6. on information disclosure and advice, which seems to imply the need to "update advice, when necessary and to comply with new legislation or relevant changes in the personal situation of the consumer". This is repeated on p. 22 amongst the examples of good supervisory practice (last bullet point: "...and adapt the recommendation to the evolving consumer situation and needs").</p> <p>The intermediary however depends on the information given to him by the client and this should be made clearer, not to imply that the intermediary has to act as a private detective in order to update his advice in case of relevant changes in the personal situation of the consumer.</p> <p>The current requirements in the IMD have over the years resulted in quality training systems adapted to the specificities of the market, in the various national Member States.</p> <p>Systems should also ensure that continuity is guaranteed. People with many years of experience in a specialist branch of insurance for example (see marine example above and below), should not be confronted with a formal system which could possibly push them out of the profession.</p> <p>Defining detailed training requirements could lead to administrative burden - in particular in a business to business environment. Intermediaries should continue to have the possibility to train people on the work floor to become specialists.</p>	<p>as indicative examples of what a competent authority could require a distributor to demonstrate.</p> <p>Noted. However, in the Report, it states that the ability to update advice, when necessary. Furthermore, it has been stated as an example.</p>
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			<p>types of organizations</p> <ul style="list-style-type: none"> <input type="checkbox"/> Sums and values insured <input type="checkbox"/> Principles of Insurance Contract Law <input type="checkbox"/> General Principles of EU/national Insurance Law <input type="checkbox"/> Knowledge of the technical knowhow of / related to the main classes of insurance if relevant for the activity of the intermediary and if relevant for the performance of its duties <p>With regard to the exam system, if any, it has to be noted that here also Member States should retain full discretion but that it would be appropriate for the board of examiners, in relation to technical subjects, to be composed of specialists in the field.</p>	
73.	Central Bank of Ireland	Q3.	<p>Section 3.3.1:</p> <ul style="list-style-type: none"> <input type="checkbox"/> The last bullet point should read: Information disclosure and, where relevant, advice as information disclosure should always be relevant. <p>Section 3.3.2, Bullet point 6:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Ability to manage conflicts of interest should be covered by conduct of business rules or operational requirements on firms as opposed to knowledge and ability. 	<p>Noted.</p> <p>Disagree. Since knowledge and ability also reflects a set of skills and the ability of a professional to face in certain situations.</p>
74.	Danish Employers Association for the Financial Sec	Q3.	<p>The overall “aspects” are covered, but there are particularly three areas that we do not comprehend:</p> <p>1 Legal aspects - this describes a surveillance comprised primarily of EU legislation, which is a step in the wrong direction. Legislation is typically implemented nationally and national conditions are at least as important and makes sense in national states. It will create unnecessary mistrust and lack substantial justification if there is more focus on EU legislation than on national legislation. clause 3.3.2</p>	<p>Noted.</p> <p>Disagree. It is not primarily focused on EU legislation, but “regulatory and supervisory rules” based on EU Directives. Therefore, national laws are included. The Report has been amended to reflect this point.</p>

			<p>2 High-level Principles - by providing concrete examples that are too specific, the requirements do not create value in relation to consumers, employees and businesses as they are too inflexible and can be irrelevant in comparison to the national requirements. Therefore, it should only be the general principles that should be part of the report, otherwise the requirements make no sense in the "real world". It will claim that a "one size fits all" which would not be in favour of consumers. clause 3.3.1</p> <p>3 Levels of high-level principle - Working with technical insurance professional features that are customer-oriented, is very differentiated in the insurance industry and can to some extent be controlled by the complexity of the products. Individual companies are organised differently, therefore, to a great extent, there should be a national leeway to "level" training requirements in relation to job functions. clause 2.1.4</p>	<p>Disagree. The concrete examples serve as a clarification for the high level principles.</p> <p>Noted. The Report has been amended to explicitly recognise the fact that, in some jurisdictions, the issuance by a competent authority of licences or permissions for distributors to mediate complex products (such as insurance investment products) is contingent on the distributor having higher or more specialised qualifications and experience.</p>
75.	eficert (European Financial Certification Organisation)	Q3.	<p>We consider that the high-level principles developed in the draft report cover the right aspects of knowledge and ability an insurance intermediary should comply to, but the frame of those aspects should define general principles only. We have some concerns of narrowing down the national organisations and creating an inflexible and too specific work especially concerning the following aspects:</p> <p><input type="checkbox"/> Legal aspects: too strongly favouring European legislation is not appropriate. For consumers it is much more important to understand the national laws.</p> <p><input type="checkbox"/> High-level principles: too inflexible and partly irrelevant to national requirements; there should be a national scope of action to level training requirements to well situated and organised structures.</p>	<p>The examples are just included for the purposes of illustration.</p> <p>Noted. EIOPA has made clear in the Report that appropriate knowledge relates to national legislation/rules implementing EU Directives and not EU Directives themselves.</p> <p>Disagree. The principles themselves are flexible and leave enough room for interpretation at national level.</p>

76.	Eurofinas (The European Federation of Finance House Associations)	Q3.	<p>We fully agree with EIOPA that insurance distributors should act honestly, professionally and in line with the interests of their customers. We consider that a focus on targeted high level principles is an appropriate approach due to the diversity of both insurance markets and distribution channels across Europe.</p> <p>The Draft Report should provide high-level principles for insurance undertakings and independent insurance intermediaries. It should not apply to those intermediaries that act under the full responsibility of an insurance undertaking or another intermediary and which provide a limited number of basic insurance products in an ancillary capacity.</p> <p>Should EIOPA still believe that specific standards are required for intermediaries acting in an ancillary capacity, these ones should be adapted to the operational reality and actual ability of the distributors. For example, it would be disproportionate and unrealistic to require them to have in-depth knowledge of general insurance and financial contract law, fiscal regimes or the overall characteristics of the insurance market. Also, a separation between advised and non-advised sales should be further stressed in the Draft Report.</p> <p>On a separate note, while a clear and comprehensible language is indeed desirable, technical terms might be required by law. Technical jargon cannot always be avoided or simplified.</p>	<p>Noted</p> <p>Disagree. The scope is clarified in the report and follows the IMD1 and any Directive which replaces IMD1. Since the principles are high-level, this would allow competent authorities some flexibility for a proportionate approach. This is stated in the report on page 12.</p> <p>Noted. The principle of proportionality has been expanded upon in the Report.</p> <p>Noted.</p>
77.	European Federation of Financial Advisers and Financial Intermediaries (FECIF)	Q3.	<p>Yes. But the modus of defining “knowledge” and “abilities” by EIOPA does not comply with the European Qualifications Framework (EQF), the common standard for any kind of education and training throughout Europe since 2008. For instance, IMD-2 and MiFID-2 refer to one of the 8 EQF-levels each differentiating KNOWLEDGE, SKILLS and COMPETENCES. In order to ensure an easy application of the forthcoming EIOPA guideline in the Member States, we recommend to stick to the terminology of the EQF framework.</p>	<p>Noted. The Report uses the terms “knowledge and ability”, rather than the terminology used in the European Qualifications Framework (EQF) as “knowledge” and “ability” derive from an existing EU Directive, IMD1, which relates specifically to distributors of insurance products whereas the EQF is based on a non-binding Recommendation from the</p>

				Commission which relates to lifelong learning in the whole EU employment market.
78.	Danish Employers Association for the Financial Sector	Q3.	<p>The overall "aspects" are covered, but there are particularly three areas that we do not comprehend:</p> <p>1 Legal aspects - this describes a surveillance comprised primarily of EU legislation, which is a step in the wrong direction. Legislation is typically implemented nationally and national conditions are at least as important and makes sense in national states. It will create unnecessary mistrust and lack substantial justification if there is more focus on EU legislation than on national legislation. clause 3.3.2</p> <p>2 High-level Principles - by providing concrete examples that are too specific, the requirements do not create value in relation to consumers, employees and businesses as they are too inflexible and can be irrelevant in comparison to the national requirements. Therefore, it should only be the general principles that should be part of the report, otherwise the requirements make no sense in the "real world". It will claim that a "one size fits all" which would not be in favour of consumers. clause 3.3.1</p> <p>3 Levels of high-level principle - Working with technical insurance professional features that are customer-oriented, is very differentiated in the insurance industry and can to some extent be controlled by the complexity of the products. Individual companies are organised differently, therefore, to a great extent, there should be a national leeway to "level" training requirements in relation to job functions. clause 2.1.4</p>	

79.	FARAD International S.A.	Q3.	<p>1. The knowledge and the ability required must be adapted to the type of insurance products distributed. This point is also highlighted in the IAIS' Insurance Core Principles, Standards, Guidance and Assessment Methodology: 'The supervisor may also wish to ensure that individuals responsible for Insurance intermediation activities have professional qualifications and experience appropriate for the business which they intermediate. More complex products or Customer needs will require higher or more specialised qualification and experience. The qualifications and experience of individuals should also be appropriate for the type of intermediation being carried out, whether as agent for a specific insurer or acting as a broker primarily on behalf of the Customer'(18.3.3).</p> <p>The IMD 2 clearly defines the difference between distribution of 'insurance investment products' to which is dedicated the whole chapter VII, and the other type of products. Also the IMD 1 concerning the requirements relating to knowledge and ability of the intermediaries allows the Member States to adjust the required conditions' in line with the activity of insurance or reinsurance mediation and the products distributed'(art.4 par.1). The art. 8 par 1 of the Proposal of IMD 2 extends the existing obligation beyond one of just possessing appropriate knowledge and ability, to a result oriented obligation where that knowledge and ability must be appropriate "to complete their tasks and perform their duties adequately, demonstrating appropriate professional experience relevant to the complexity of the products they are mediating". The proposal therefore explicitly links knowledge and ability with product complexity. Considering this link that is also pointed out in the report (para. 2.1.4). it is not brought to what should be its normal conclusion: the professional requirements should be prescribed by the different type of activity carried on by the intermediary. Also the continuous professional development should be</p>	Noted. The Report has been amended to explicitly recognise the fact that, in some jurisdictions, the issuance by a competent authority of licences or permissions for distributors to mediate complex products (such as insurance investment products) is contingent on the distributor having higher or more specialised qualifications and experience.
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			<p>concentrated rather on the fields more useful for the intermediary and related to topics that he must know. A tailor made training would also help the intermediary in not feeling the training as a simple administrative burden but as an occasion of development. For the purpose of establishing which could be the knowledge to acquire from the intermediary could be useful to determine different categories of intermediary and find out which are the topics that he must know. According to this analysis also determine the number of hours of CPD that must be dedicated to the different topics in the future.</p>	
80.	Federation of Finnish Financial Services	Q3.	<p>We feel the draft principles cover the right aspects of knowledge and ability. As explained in our answer to question 2., we prefer high level principles which provide the necessary flexibility required in national circumstances. In this respect we are worried about too detailed examples in the report, particularly in the chapter 4.3 regarding the proof of continuous professional development and the oversight of CPD. The report should include high level principles only. This answer refers also to paragraph 4.</p>	<p>Noted.</p> <p>Disagree. The detailed examples are just to illustrate the high level principles.</p>
81.	FFSA	Q3.	<p>For the FFSA, the high-level principles addressed in the draft report (e.g. legal aspects, insurance markets, ethics and professional conduct, information disclosure and advice) cover the right aspects of knowledge and ability an insurance intermediary should comply when he deals with a consumer.</p> <p>However regarding examples of what a competent authority could require a distributor to demonstrate, the FFSA considers they are too detailed and sometimes redundant or inappropriate. Furthermore, it is confusing to see that "knowledge" and "abilities" are mixed and do not appear separately.</p> <p>More precisely, regarding bullet point 1, we are not sure the knowledge on "how to execute the contract in good faith"</p>	

		<p>concerns the distributors. The execution of the contract is a core activity of the insurer which is quite different from the distribution activity.</p> <p>The FFSA does not also understand the bullet point regarding supervisory approach of national authorities while on the previous bullet point there is already a reference to “responsible supervisory authority’s mission and powers”. This point should be clarified.</p> <p>Regarding the bullet point which deals with conflicts of interest, the FFSA would like to stress that in IMD2, which is still under negotiation, the obligation to manage conflicts of interest only concerns insurance intermediaries and insurance undertakings who are selling insurance investment products. Consequently, this requirement regarding the ability to manage conflicts of interest is not relevant for distributors selling products which are not insurance investment products. The bullet point should be modified accordingly. Furthermore, the FFSA considers the issue of conflicts of interest should be dealt under the title “Ethics and professional conduct” which addresses the “best interests of the customer”.</p> <p>Regarding the field “products”, we consider it is too “insurance investment product” oriented. Furthermore, the second bullet point deals with the ability to identify the risks and rewards of a particular strategy. This assertion is not relevant: an insurance intermediary distributes insurance products, he does not act as a wealth manager and does not propose to the consumer a financial strategy for the management of his wealth.</p> <p>For the theme “information disclosure and advice”, we think that the “knowledge and ability to answer simple and complicated questions from actual or potential customers” should be proportionate to the distribution activity. Regarding complicated questions, the insurance distributors, who is acting on an ancillary basis, should be allowed to call a hotline handled by the insurance undertaking or professional</p>	<p>Noted.</p> <p>Agreed. The Report has been amended to remove this duplication.</p> <p>Noted. It is not necessary to change this, since the scope of the Paper is made clear at the beginning.</p> <p>Agree. The Report has been amended to reflect the fact conflicts of interest also relate to “Ethics and professional conduct”.</p> <p>Disagree. These are just examples and could be relevant in case of insurance investment products.</p> <p>Noted. The principle of proportionality has been reinforced in the Report and applies to the whole document.</p>
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			<p>intermediary.</p> <p>The bullet point 5 is also “insurance investment product” oriented, the references to “financial capacity, long-term objectives” should be removed; the same applies for bullet point 6 which also refers to financial “strategy” and for bullet point 8 which refers to the beneficiary clause. On this point, the FFSA stresses that guidance regarding beneficiary clause is not the role of distributors and does not relate with mediation. Moreover, we wonder whether this issue with significant national interference should be addressed at European level.</p> <p>The bullet point 10 only concerns independent intermediaries.</p> <p>The bullet point 11, refers to the ability to update advice. All insurance customers do not benefit from an advice which has to be updated by the distributor; in these conditions the bullet point should be modified as follows: “Where relevant, ability to update advice, when necessary...”</p> <p>Regarding the box p.21, good supervisory practices on a short format is a good solution; however, we do have some comments on the content of the box which is linked to the comments we made regarding lists of examples:</p> <p>Bullet point 3: the insurance contract is not “executed” by the intermediary but by the insurance undertaking and the insured.</p> <p>Bullet point 4: the reference to risks and rewards of a strategy should be removed.</p> <p>Bullet point 5: the example relating to beneficiary clause should be deleted. This bullet point should also takes into account the fact that in Europe, all insurance customers do not benefit from an advice (updated or not). The requirements proposed in this last bullet point depend on the extent of the intermediation service proposed to the insured. In these conditions, it would be preferable to add “where relevant, to provide suitable and/or personalised recommendations...”</p>	<p>Noted. EIOPA has sought to clarify in the Report that the examples are where relevant to the activity of the distributor or the product he/she is mediating e.g. some examples may be less relevant to non-investment insurance products.</p> <p>Noted. Only concluding the contract would be too narrow. It is about the circumstances that are connected to concluding and executing. This is not the same as stating that the intermediary is responsible for these phases.</p>
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82.	German Insurance Association	Q3.	<p>As stated under no. 1, the differentiation between “knowledge” and “ability” has created some proximity to the EQF, but an increased adoption of the matrix and descriptors of the European Qualification Framework would increase the transparency of the approach. An initial approach, which should be applicable all over Europe even without a framework to describe the level of skills, is possible with respect to the high-level principles since it reflects general codes of conduct:</p> <p>Insurance and reinsurance intermediaries as well as members of staff of insurance undertakings carrying out insurance mediation activities</p> <ul style="list-style-type: none"> i. treat customers in a fair way, ii. offer their advice on request or take the initiative if they recognise a respective need on the part of the customer, iii. inform customers about the nature and scope of their services, iv. develop a customer requirements analysis based on the information provided by the customer, v. provide advice based on sound product knowledge, vi. provide product information relevant for the customer’s decision to the customer prior to filing an application. 	<p>Noted. The Report uses the terms “knowledge and ability”, rather than the terminology used in the European Qualifications Framework (EQF) as “knowledge” and “ability” derive from an existing EU Directive, IMD1, which relates specifically to distributors of insurance products whereas the EQF is based on a non-binding Recommendation from the Commission which relates to lifelong learning in the whole EU employment market.</p>
83.	I.K. Rokas & Partners Law Firm	Q3.	<p>C 2. With respect to intermediaries’ knowledge and ability, and in addition to the issues considered by EIOPA under 3.3.5 and 3.3.6, it is necessary to regulate the ethical behaviour/professional conduct of banks which sell insurance products as tied intermediaries. More specifically, we deem it necessary for the enhancement of consumer protection (1) to impose on banks the obligation to warn their clients that the products they sell are not products designed and manufactured by them but by an insurance undertaking, (2) in the same sense, the term bancassurance should not be used in the context of the product, but be only confined to the marketing /</p>	<p>Noted, but Banks are not the addressees of this Report.</p>

			<p>selling activity of such insurance product, in particular banks could name such products as insurance products and not as bancassurance products, (3) to ensure that clients are aware of the fact that banks sell insurance products not under their own responsibility, but under the full responsibility of the insurance undertakings/ insurance intermediaries, for and on behalf of which they act These suggestions are in line with the aims of EIOPA mentioned under 2.3.2 of the Report, i.e. the improvement of the disclosure and selling of insurance products to customers and the reduction of information asymmetry for them. Also, such an initiative of EIOPA would refer to the good supervisory practice under 1.1, according to which a competent authority provides that distributors have appropriate knowledge and ability to demonstrate ethical and professional conduct at all times and the good supervisory practice according to which a competent authority provides that distributors carry out CPD which covers not only professional knowledge, but ethics as well.</p> <p>C 3. The report refers to awareness and ability to comply with consumer protection requirements regarding disclosure and selling of insurance products which apply throughout the duration of the contract under 3.3.2 and the ability to update advice, when necessary and to comply with new legislation or relevant changes in the personal situation of the customer under 3.3.6. The report could additionally include that the duty of disclosure has to be performed during the term of the contract with respect to any change of the information referred to under 3.3.6.</p>	
84.	Insurance Europe	Q3.	<p>We believe that the high-level principles developed in the draft report (legal aspects, insurance markets, ethics and professional conduct, information disclosure and advice) cover the right aspects of knowledge and ability that an insurance intermediary should comply with when dealing with a consumer. However, we have some concerns that by providing concrete examples that are too specific, the requirements do not create value in relation to consumers, employees and</p>	<p>Noted. The Report has been amended to reflect that the examples are where relevant to the product or activity being</p>

			businesses as they are too inflexible and can be irrelevant in comparison to the national requirements. Therefore, it should only be the general principles that should form part of the report.	mediated.
85.	Insurance Sweden	Q3.	<p>Most relevant aspects of knowledge and ability are mentioned but there are some areas of knowledge that has to be mentioned like:</p> <ul style="list-style-type: none"> • Marketing • Insider regulations • Legal issues regarding family, marriage, inheritance etc. <p>Insurance Sweden has concerns about some of the examples of what a competent authority could require a distributor to demonstrate (3.3.6., page 21). The examples are too far reaching when an undertaking has to demonstrate the knowledge and ability to answer questions from customer or the ability to communicate effectively (tone, manner, style) orally etc.</p> <p>The insurance undertaking is responsible for their employees conduct, ability and knowledge.</p>	<p>Noted. EIOPA has sought to clarify in the Report that the examples are where relevant to the activity of the distributor or the product he/she is mediating e.g. some examples may be less relevant to non-investment insurance products.</p>
86.	Leaseurope	Q3.	<p>Leaseurope is of the opinion that generally the high level principles are too broad, far reaching and insufficient in the fact that they do not take into account the different types of intermediaries, distribution channels and product ranges. EIOPA should avoid trying to come up with a one-size-fits-all approach, due to the inherent diversity of the insurance mediation market.</p>	<p>Noted. The principle of proportionality is expanded upon in the Report. The principles itself are high level.</p>
87.	Nordic Financial Unions (NFU)	Q3.	<p>In general NFU agrees with the aspects of knowledge and ability as described in the report. However as stated under Q1 knowledge and ability requirements need to be adapted to the complexity and type of products.</p> <p>Furthermore the requirements listed need to be proportionate</p>	<p>Noted. The Report has been amended to explicitly recognise the fact that, in some jurisdictions, the issuance by a competent authority of licences or permissions for distributors to mediate complex products</p>

			<p>to the role of the insurance intermediary and the risks related to the products sold. This would lower the administrative burden put on the employee.</p> <p>Under 3.3.6 regarding what competent authorities can require a distributor to demonstrate these should be seen as good practice rather than explicit demands. The way it is currently formulated puts all the responsibility on the client relationship officer. For example clients may voluntarily or involuntarily provide misinformation and may refuse or omit to disclose information relevant for the selection of suitable product. When defining behavioural aspects, judgement and performance measurements may become arbitrary.</p>	<p>(such as insurance investment products) is contingent on the distributor having higher or more specialised qualifications and experience.</p> <p>Noted. This is again about the status of the examples.</p>
88.	RSA Insurance Group plc	Q3.	Yes	
89.	Standard Life Assurance Limited	Q3.	Yes, the standards outlined on knowledge and ability are what we expect of our firm's direct sales force.	
90.	The Chartered Insurance Institute	Q3.	<p>Yes. As stated above, we welcome that knowledge and ability includes the conduct element taking into account ethical standards. Several opinion surveys suggest that customers assign high importance to the ethical conduct of the practitioners serving them. For example, in a survey of retail consumers conducted for the CII:</p> <p><input type="checkbox"/> 80% said they were less likely to trust advice from a broker they believed was not committed to a clear code of ethics;</p> <p><input type="checkbox"/> Nearly 90% would not trust those who did not commit. The same number would expect them to be punished if they failed to do so and/or be more comprehensively regulated; and</p> <p><input type="checkbox"/> Over 90% deemed it unacceptable that no insurance brokers are obliged to abide by a clear code of ethics. Just 3% thought this was acceptable.</p>	Noted

		<p><input type="checkbox"/> In a 2011 survey for the CII of small and medium sized businesses:</p> <p><input type="checkbox"/> 72% expected insurance brokers to be subject to disciplinary procedures if they fail to act ethically;</p> <p><input type="checkbox"/> 87% of respondents considered 'ethical behaviour' an important part of professionalism; and</p> <p><input type="checkbox"/> 89% expected insurance brokers to adhere to a clear code of ethics that ensures they act in their best interest.</p> <p>To implement good conduct across the industry in Europe, the best practice is not just having principles, but also communicating and embedding this behaviour in a way that creates an appropriate culture.</p> <p>Competent authorities would ensure that insurance firms have taken steps to develop good conduct and ethical practices within their organisation and be able to provide evidence on how they do this. This might involve:</p> <p><input type="checkbox"/> Developing: requiring firms to develop or abide by principles underpinning good conduct and ethical practices.</p> <p><input type="checkbox"/> Communicating: conveying these principles to individual practitioners at all levels, explaining why they are important, their application in day-to-day practices, and the consequences of not applying them. Best practices should include practical staff training and communications material.</p> <p><input type="checkbox"/> Embedding: these principles must be reflected in the activities, business decisions and culture at all levels within firms. One approach might be for competent authorities to ask firms to provide evidence of how they have embedded these practices. Another approach might involve incorporating conduct assessment into the regulator-firm supervisory relationship.</p> <p>There is a link between more ethical practices and lower regulatory risk. Insurance undertakings and intermediaries that</p>	Agree
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			<p>can clearly demonstrate close adherence to ethical conduct principles throughout their culture and practices should be given some sort of supervisory recognition.</p> <p>Our one misgiving on this theme is that there is no mention of the role of professional bodies in delivering and overseeing practitioner knowledge and ability. For the same reason that EIOPA was correct in acknowledging the role of professional bodies for continuing professional development (CPD), those bodies also provide an impartial approach to delivering other aspects of professionalism, including providing learning material and testing these objectively; and setting out, communicating and enforcing ethical standards. This is often the most effective way of driving impact to raise standards beyond simple “regulatory compliance”.</p>	
91.	UK Financial Services Consumer Panel	Q3.	<p>The high level principles would benefit from a clearer articulation of the requirement for distributors to have specific and up to date knowledge of the products and product classes they are authorised to distribute, as well as an understanding of the general market, including potential risks, of any particular product class which they may distribute.</p> <p>The requirements to provide ethical and professional conduct at all times are welcome, although some guidance on what these terms mean in practice will be required. In addition to the requirement to be able to communicate complaints handling processes, the distributor should also be required to understand and communicate processes for accessing alternative dispute resolution systems.</p>	Noted
92.	UNI Europa Finance	Q3.	<p>In general UNI Europa Finance agrees with the aspects of knowledge and ability as described in the report. However as stated under Q1 knowledge and ability requirements need to be adapted to the complexity and type of products.</p>	Noted. EIOPA did consider the link between training standards and the complexity of products, however chose not to go in detail about this issue as there are a variety of different approaches

			<p>Furthermore the requirements listed need to be proportionate to the role of the insurance intermediary and the risks related to the products sold. This would lower the administrative burden put on the employee.</p> <p>Under 3.3.6 regarding what competent authorities can require a distributor to demonstrate these should be seen as good practice rather than explicit demands. The way it is currently formulated puts all the responsibility on the client relationship officer. For example clients may voluntarily or involuntarily provide misinformation and may refuse or omit to disclose information relevant for the selection of suitable product. When defining behavioural aspects, judgement and performance measurements may become arbitrary.</p>	<p>on this issue at national level. However, the Report has been amended to explicitly recognise the fact that, in some jurisdictions, the issuance by a competent authority of licences or permissions for distributors to mediate complex products (such as insurance investment products) is contingent on the distributor having higher or more specialised qualifications and experience.</p>
93.	Insurance and Reinsurance Stakeholder Group (IRSG)	Q4.	<p>The IRSG notes that draft report makes several references to “entities”, such as recognized schools, professional bodies, organizers licensed, as providers of courses or training to comply with the principle of continuous professional development. Nothing is said, however, regarding the requirements of these entities.</p> <p>The IRSG acknowledges, inter alia, the risk of conflict of interest between private business and the sake of a public objective that can result from the potential accreditation of private organisations (both at the domestic and at EU level) recognised by supervisors as responsible for training and competence requirements.</p> <p>However, the IRSG senses a need for clarity on the requirements that national supervisory authorities should consider in assessing the quality of people, in terms of insurance experience and background, which can be properly instructors at these entities and, accordingly, the same quality of the courses/training provided by the entities.</p> <p>Therefore the IRSG invites EIOPA to consider the introduction of good practices on professional background, which may be required by the national supervisory authorities to the</p>	Noted

			instructors who are able to provide a continuous professional development to distributors.	
94.	Allianz SE	Q4.	We agree with the Report's statement that the necessity of permanent updating and progressing of the knowledge and ability of the distributors is of particular importance. The proposed "Continuous Professional Development" (CPD) should be well organised – comparability throughout the affected industry has to be ensured. However, the proposal to set up special bodies for implementation is to be questioned: As far as national systems have well approved methods, these have to be accepted.	<p>Noted. The Report is flexible enough to accept good existing national practices.</p> <p>Disagree. Special bodies can reduce the administrative burden for the competent authority. Special bodies should act under the supervision of the competent authority.</p>
95.	ANASF	Q4.	Yes. We agree with EIOPA that Member States should ensure that insurance and reinsurance intermediaries and staff of insurance companies update their knowledge and skills through continuous professional development in order to maintain an adequate level of performance. We agree with your Authority that the update should include not only professional knowledge, but also ability and ethics. It is also crucial to ensure that the entities responsible for the supervision, make insurance distributors aware of the importance of maintaining a high level of professionalism and knowledge and the need to update it. The regulations for intermediaries adopted by Consob with resolution no. 16190 of 29 October 2007ex art. 105 asserts that tied agents are required to professional development through participation in courses on a regular basis at the conclusion of which they received certificates of attendance. To this end, a qualified entity shall have in place appropriate procedures to ensure the appropriate training and professional development of tied agents working on their behalf.	Agree
96.	Association of International Life Offices (AILO)	Q4.	In principle "yes" but again there may perhaps be a lacuna in respect to cross border activities. Thus an intermediary might carry out significant activities in State B on a FoS basis. Logically that will require adequate and current knowledge of tax and other issues in State B. The State A competent	Noted. Under Article 4(1), IMD1, whether an insurance intermediary possesses appropriate knowledge and ability is determined by the home Member State of the intermediary.

			authority may consider that knowledge to be a necessary requirement but short of on-site inspections who will or can assess on-going competence?	
97.	BEUC	Q4.	<p>In our view, it is important that initial knowledge requirements as well as CPD requirements also cover legislative developments that are not necessarily directly related to financial services e.g. changes to the benefit system which will have an impact on certain types of insurance cover. As an example, during the financial crisis the UK government changed the rules that allowed homeowners to claim mortgage income support in the case of reduced working hours or loss of employment. This had an impact on mortgage payment protection insurance and insurance intermediaries should be expected to immediately take such developments into account.</p> <p>We are also of the view that professional requirements should include an obligation to carry out a review whether the cover is still appropriate for existing customers, in cases where new legislation affects existing contracts.</p>	Noted. The Report has been amended to refer to knowledge of the social security regime applicable to the different products.
98.	BIPAR (the European Federation of Insurance Intermediaries)	Q4.	<p>See above.</p> <p>BIPAR promotes the application of appropriate systems of continuous professional development but as stated above believes that for the practical implementation and detail, flexibility and freedom should be left to the Member States.</p> <p>With regard to the proof of continuous professional development (point 4.3.2) where evidence can be given on a formal (e.g. through a certificate) or informal (e.g. demonstration of exercises with a coach) basis, we would like to better understand how such proof can be given in an informal way.</p> <p>With reference to the following statements on oversight, we explicitly wish to point out that there is no reason to believe that oversight organised by professional bodies that represent distributors/ intermediaries would not function well:</p>	<p>Agree, because there are so many different CPD applications in every Member State.</p> <p>The system of points (1 hour insurance activity = 1 point) can provide proof.</p>

			<p>o point 4.3.6. "Current oversight mechanisms vary across jurisdictions with responsibility falling to the supervisory authority, a professional body not representing distributors, or, in some cases, an insurance undertaking or an insurance intermediary (where it is fully responsible for a natural or legal person conducting insurance mediation). There is, however, usually some form of external assessment of the distributor's CPD activity. It would be important that impartiality remained as a theme across all jurisdictions ».</p> <p>o the summary on p 29 : «EIOPA considers it good supervisory practice for a competent authority to: Ensure there is appropriate oversight of CPD activity: An external body can be used to assess whether a distributor is maintaining their knowledge and ability through CPD which fulfils relevant legal and regulatory requirements. This body may, for example, be in the form of a supervisory authority or a professional body not representing distributors. Some supervisory authorities permit an insurance undertaking or insurance intermediary which has full responsibility for a natural or legal person conducting insurance mediation, to conduct oversight of that person's CPD.</p>	
99.	Central Bank of Ireland	Q4.	<p>Section 4.3.1, Duration & frequency:</p> <p>We consider a more structured annual requirement of 15 formal hours to be good practice. In addition, the content of CPD should be relevant to the functions in respect of which the individual is a qualified person and should consist of technical skills rather than soft skills, for example, time management or negotiation skills.</p>	Noted. EIOPA's example of 30 hours over 3 years is more appropriate at the outset. However, the necessary duration can be longer if the CPD also acknowledges trainings in soft skills. A reference to "soft skills" has been added to the Report.
100.	Danish Employers Association for the Financial Sec	Q4.	<p>There are crucial differences between member states' insurance markets and training systems and no solution fits everyone. Good supervisory practices should be on a national level and conform to the traditions of continuous professional development (CPD) in each member state. FA believes that making companies do the same, does not result in better</p>	Noted. The Draft Report is quite flexible and can accept different kinds of national practices.

			consumer protection. Instead it can lead to unnecessary administrative burden on the companies	
101.	eficert (European Financial Certification Organisation)	Q4.	<p>CPD and qualification for appropriate knowledge and abilities defined in the draft report covers important issues and provides a good basis for discussion especially as far as the involvement of national organisations is concerned. on a national level a European guideline focussing CPD and education has to be easily and pragmatically implemented. This indicates respecting diversity and flexibility.</p> <p>According to our opinion, it is extremely important to define the target group for obligatory registration and education reasonably. We do not think of expanding CPD to distributors who sell insurance, which is complementary to the goods or services supplied in their principal activity. For a better understanding of our plea, we give you one very specific example out of a heap: an employee in a travel agency who sells alongside the travel package an insurance policy for covering cancellation fees should hardly belong to a target group for obligatory registration and education.</p>	<p>Agreed</p> <p>Disagree. Consumer protection must be the same independently of the type of distribution channel.</p>
102.	Eurofinas (The European Federation of Finance House Associations)	Q4.	<p>In general, we agree with EIOPA's recommendations on continuous professional development (CPD).</p> <p>However, we believe that the recommendations fail to take into account the diversity of intermediaries, in particular those who distribute insurance products on an ancillary basis and works under the full responsibility of insurance undertakings or another insurance intermediary. As previously stated, we believe it is key that any supervisory regime is proportionate and takes into account the nature, the size and operational characteristics of insurance distributors.</p> <p>We believe that CPD is best performed and monitored by the industry and individual undertakings. This is because training of staff/distributors is essential to ensure that these ones have a good understanding of the products they distribute as well as the information and explanations to be given. Training by the</p>	<p>Noted</p> <p>Agree. The Report has been amended to give more prominence to the principle of proportionality.</p>

			<p>undertaking fosters its relationships with its distribution network and contributes to sound business practices, including an increased awareness and caution towards fighting fraud.</p> <p>Though we understand the need to report concrete actions undertaken to the relevant competent authority, we would strongly oppose allocating responsibility to an external body.</p>	<p>Disagree. External bodies can reduce the administrative burden for the competent authority. External bodies should, however, act under the supervision of the competent authority.</p>
103.	European Federation of Financial Advisers and Financial Intermediaries (FECIF)	Q4.	<p>Bodies representing distributors should not be excluded from becoming a supervisory authority for CPD, since this would run counter the idea of having those knowing their business contributing to their own professional education and training. This, in fact, is impossible. For instance, a car mechanic can (and should) only be trained by professional foremen who themselves are skilled mechanics. Where else could a novice get the necessary know-how? What needs to be secured is that adequate standards for CDP are put in place and effective supervision is tasked to an independent authority, while at the same time professional associations should be actively invited to contribute to the on-going operative implementation of CDP for their members.</p> <p>Example 1: The Austrian Association of Financial Advisers in the Chamber of Commerce enrolled a master plan for 40 hours of CDP within 3 years. Vocational training institutes complying with the content and standards are entitled to offer training courses which are certified by the chamber.</p> <p>Example 2: The Austrian Association of Insurance Broker in the Chamber of Commerce offers Credits for vocational training and education subject that the training institutions reveal the curriculum of their individual seminars which then are assessed by an advisory committee.</p> <p>Example 3: The organisers of conferences/courses for IFAs and brokers in Austria hold a register of attendance, mentioning a number of study points collected by each distributor and the date of the conference, course or workshop.</p>	<p>Agreed. External bodies can reduce the administrative burden for the competent authority. External bodies should, however, act under the supervision of the competent authority.</p>

104.	Danish Employers Association for the Financial Sector	Q4.	There are crucial differences between Member States' insurance markets and training systems and no solution fits everyone. Good supervisory practices should be on a national level and conform to the traditions of continuous professional development (CPD) in each member state. FA believes that making companies do the same, does not result in better consumer protection. Instead it can lead to unnecessary administrative burden on the companies	Noted. The Report allows different national solutions by setting out only high-level principles only. It is quite flexible in that respect.
105.	FFSA	Q4.	<p>For the FFSA, continuous professional development (CPD) structure must remain proportionate to the requested objective and avoid excessive administrative burden on distributors and competent authorities. In this regard, the FFSA supports the fact the report allows an insurance undertaking or intermediary, which has full responsibility for a person conducting insurance mediation, to conduct oversight of that person's CPD (see p.29).</p> <p>However we wonder if CPD could be expanded to distributors who sell insurance which is complementary to the goods or services supplied in the framework of this principal professional activity. Due to the turnover of these distributors, CPD will prove unfeasible in practice.</p> <p>It is difficult to understand how to implement CPD for ability? The FFSA is of the opinion the professional experience permits to comply with ability; for us, CPD regarding ability only makes sense when a specialised insurance distributor intends to sell new insurance products which require new knowledge and abilities.</p> <p>The FFSA is not in favour of undue burden on distributors or competent authorities (for example, the authority who is in charge of intermediaries registration). In this regard, point 4.3.5 of the draft report involves the intervention of the authority of intermediaries registration for the record of study points collected by the insurance intermediary. This record, and the updates it requires, will lead to disproportionate</p>	<p>Agree</p> <p>Noted. The Report has been amended to give more prominence to the issue of the application of knowledge & ability and CPD criteria to ancillary business.</p> <p>Noted. See paragraph 4.1.4 of the Report</p> <p>Noted. A record of study points is one option available.. The problem can be solve with good IT system without undue burden.</p>

			administrative burden on competent authorities as well as on insurance intermediaries and undertakings.	
106.	German Insurance Association	Q4.	<p>There is no doubt about the fact that lifelong learning is indispensable in a modern and competitive European society. Thus, it is clear that this principle is also of prime importance for the future of insurance intermediaries operating in Europe. However, to a larger extent than other sales areas, insurance mediation is subject to a continuous change of legal and social conditions. For instance, the advisory tasks of intermediaries become significantly more complex and involve more responsibility as a result of the demographic change in many Member States.</p> <p>Continuous professional development (CPD) should be implemented in a structured and well-organised way and should be comparable across companies if possible. The implementation, however, does not require the involvement of public authorities, but should be the task of neutral and professional institutions which are recognised by the insurance industry.</p> <p>The intention to mainly only realise an updating of already acquired knowledge and abilities by means of CDP is considered to be a deficit of previous approaches. The aspect of professional development in terms of extending areas of expertise by means of increasing knowledge and abilities should be given more consideration.</p>	<p>Agreed</p> <p>This underlines the importance of CPD</p> <p>According to the Report, it is possible. The impartiality of the neutral or professional institution should however be tested by the competent Authority.</p> <p>It is a minimum. A national solution can be more ambitious.</p>
107.	Insurance Europe	Q4.	<p>Continuous professional development (CPD) structure must remain proportionate to the aim and avoid excessive administrative burden on distributors and competent authorities. The administrative burden is already unnecessarily high concerning the registration of agents, for both insurance companies and authorities. In this regard, we are happy to see that the report allows an insurance undertaking or intermediary, which has full responsibility for a person conducting insurance mediation, to conduct oversight of that person's CPD. However, we question whether CPD can be</p>	<p>Noted. The Report has been amended to give more prominence to the principle of proportionality.</p> <p>Agree.</p>

			<p>expanded to distributors who sell insurance which is complementary to the goods or services supplied in their principal activity.</p> <p>We are not in favour of undue burden on distributors or competent authorities (e.g. the authority in charge of intermediaries' registration), as this will inevitably lead to additional unnecessary costs on consumers in the form of higher premiums. In this regard, point 4.3.5 of the draft report provides for the intervention of the intermediaries' registration authority for the recording of study points collected by the insurance intermediary. This recording and updating will lead to disproportionate administrative burden on competent authorities, as well as on insurance intermediaries and undertakings.</p> <p>We believe that the wording of the recommendation on page 29 is too detailed and creates a risk of introducing new standards by authorities, e.g. the recommendation on the external body to assess the oversight of CPD activity might lead to the disappearance of other existing models. We also believe that while evidence of CPD may of course be reviewed by the competent authority, the requirement that it "should" be reviewed on a regular basis is too strong.</p>	<p>These are logical rules in the Report.</p> <p>Disagree. CPD is arguably already an obligation pursuant to IMD1 as Article 4(5) states that the professional requirements should be fulfilled on a permanent basis.</p>
108.	Insurance Sweden	Q4.	Insurance Sweden is concerned that the high level principles will call for external independent education models only (see further answer under question 2). Another concern is that it must be possible for insurance undertakings with distribution on different markets to conduct CDP the same way throughout the whole organisation.	
109.	Leaseurope	Q4.	Leaseurope notes the aspects that the Draft Report denotes for CPD and appreciate that there are cases where CPD on all the areas outlined could be beneficial in certain circumstances. However, it is very difficult to mandate one standard without looking at the specificities of each individual intermediary. Thus, the CPD should be proportionate to the level of mediation conducted and complexity of the products offered, and above	Agree. The Report has been amended to reflect this point regarding proportionality.

			all be flexible depending on these performance indicators.	
110.	Nordic Financial Unions (NFU)	Q4.	<p>The proposed amendments to IMD II, listed under general remarks, stress the need to ensure that a sufficient level of qualifications must be ensured for staff providing insurance policies and that continuous training and competence development must be the responsibility of the company and not the individual employee. Therefore, under 4.2.3 "How?" this should be clearly stated.</p> <p>Further under 4.2.3 NFU believes that some caution is needed regarding e-learning as this may discourage insurance undertakings to carry out their duty to provide training to their staff. Every employee has the right to receive the training necessary to fulfil the job he/she is doing.</p> <p>4.3.12-13: Ensuring that adequate CPD is offered by the employer is further linked to the question of sanctions. An employee should never have to face sanctions for having followed internal rules. If the employer is made responsible for the further education of the staff then this problem is more easily avoided.</p>	<p>Agree</p> <p>Agree, although this report does not deal with requirements as to who is responsible for the action of staff. It is up to Member States to implement any legal or regulatory act if deemed necessary, in accordance with national legislation.</p> <p>Noted, but a high variety of e-learning practices can be pursued.</p> <p>Agree. See above point.</p>
111.	RSA Insurance Group plc	Q4.	<p>Although we agree with the principle of CPD, we do not like the approach as outlined in the consultation. In particular:</p> <p><input type="checkbox"/> We disagree with EIOPA setting minimum levels of CPD (see question 5)</p> <p><input type="checkbox"/> We believe the emphasis on appropriate oversight is disproportionate. The inference from the document (if not the intention) is that an external body or professional body should conduct oversight activity. In our view, the most obvious vehicle is not an external body, but the competent authority itself when conducting routine supervision of the firm. As the costs of regulation throughout the EU are already significant it is important that current mechanisms are used where possible and in preference to the establishment of any new oversight</p>	<p>The Report is not legally binding. EIOPA provides suggestions in order to facilitate the task of competent authorities. In any event, there should be a minimum level playing field between Member States.</p> <p>In the wording of the Report, the supervisory (or competent) authority is also an external body.</p>

			mechanisms. In our view, rather than list the bodies that can exercise oversight of CPD, the paper should be silent on this point and allow the competent authority to determine how best to achieve this. Alternatively, the list should be extended to give sufficient weight and balance to the expectation that CPD oversight will be conducted by the Competent Authority as part of its regular monitoring activity.	Agree. The list of bodies gives only examples.
112.	Standard Life Assurance Limited	Q4.	Yes.	
113.	The Chartered Insurance Institute	Q4.	<p>We welcome the suggested approach on several counts, and think that this is one of the most sophisticated approaches ever taken at the supra-national level. Compared to the long history of awarding bodies and examinations, the idea of CPD is still in its infancy. Whereas examinations and other associated assessment methodologies have become quite advanced in both objectiveness and sophistication, decision-making about what and how to maintain competence has largely been left to the individual practitioner.</p> <p>First, we especially support the report's starting point that "professional experience does not necessarily guarantee continuous adherence to correct principles or improvement in the quality of conduct." The question of professional experience has been a controversial issue in the context of any debate on improving professional standards, and the CII's stated view is that years of experience can mean nothing if a practitioner's conduct is less than professional. Therefore, assessing experience should be about:</p> <ul style="list-style-type: none"> <input type="checkbox"/> quality of work during those years of experience; <input type="checkbox"/> number of years the practitioner has been submitting CPD returns; <input type="checkbox"/> any disciplinary action against the individual; and <input type="checkbox"/> proving the individual's technical competence and 	Agree

		<p>conduct.</p> <p>This last point leads to the debate over whether professional experience could fulfil the knowledge and ability requirement. We would argue that experience on its own is not sufficient, and that examinations and qualifications are the best form of objective assessment. There is scope for “alternative assessment” such as oral interviews, but this may be too detailed for the EU level, and the need to ensure that standards are not watered down in the process. Nevertheless, we suggest that any EU level guidelines should have an element to objectively assess the individual’s technical competence and conduct.</p> <p>Second, we support the position that practitioners must “carry out CPD which covers not only professional knowledge but also ethics”. As stated above, knowledge and ability includes a conduct element, so demonstrating ethical ability should be an essential part of CPD.</p> <p>Third, in relation to maintaining and updating CPD, we support the hours-based rather than points-based approach in the report. This is in line with current best practice, and many professional bodies that previously used a points-based system have switched to an hours-based one.</p> <p>Finally, we strongly welcome the report’s inclusion of “professional bod[ies] not representing distributors” as alternative to national supervisors in the oversight role. This language could probably strengthened by adding “or other direct industry interests”. A good CPD system must be rigorously monitored by an impartial body, and this approach reflects that such a body should encourage CPD not just the extent to which it is complied.</p> <p>In terms of improvements to the approach, we would suggest widening the possible learning formats to include e-learning to cater to the range of different learning preferences. A balance of categories of learning to include technical, self-development,</p>	<p>Agree. A coach may help to prevent sub-optimal outcomes for distributors.</p> <p>Agree. Demonstration of ethical ability is already mentioned in the Report.</p> <p>The hours based and the points based approach are the same.</p> <p>Professional bodies representing distributors may have an oversight role if they are supervised by the competent authority.</p>
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			and business skills). In UK the onus is on the individual to quantify both the benefit and relevance to his/her professional development. This discourages tick box approach to CPD, and is more flexible – broader scope of learning (e.g. supports specialisation in a mature market and customised learning programmes) and not reliant on a third party to authorise before learning can commence.	Noted. The Report contains e-learning and a wider range of possibilities.
114.	UK Financial Services Consumer Panel	Q4.	<p>The Panel strongly supports the use of CPD as a means of developing advisers' knowledge on a regular and routine basis. This must however be appropriately recorded and monitored by firms and professional bodies.</p> <p>We do, however, have concerns over the proposals that an external body providing oversight of CPD body must be 'a professional body not representing distributors'. In some cases, the distributors' professional body may be best placed to oversee professional standards. For example, the Chartered Insurance Institute, which has its activities governed by a Royal Charter, provides training and certification to high standards in the UK. If such a provision were to result in the creation of a new body, it is not clear that this would necessarily materially improve consumer protection, and the cost of setting up such a body would ultimately fall to taxpayers and/or policyholders.</p>	<p>Noted</p> <p>Noted. External bodies representing distributors may have an oversight role if they are supervised by the competent authority.</p>
115.	UK Institute and Faculty of Actuaries	Q4.	<p>Qualified members of the IFoA are required to comply with the requirements of the IFoA's continual professional development (CPD) scheme. Employees of licensed firms that are qualified members of the IFoA are required to comply with the CPD scheme. However, the IFoA does not impose similar requirements on non IFoA members employed by such firms. Therefore, the IFoA relies on CPD requirements imposed by the regulatory bodies of non-members under the DPB Handbook. The IFoA also relies on the firm, which is responsible for ensuring that work is executed by a suitably qualified, competent and experienced individual.</p>	Noted. There are important differences between self-regulation and regulation imposed by law.

		<p>While the IFoA is unable to comment on CPD requirements for non IFoA members. From the IFoA's experience of operating a CPD scheme, the IFoA has the following comments on the proposals outlined in paragraph 1.2 of the consultation document. The IFoA agrees that it is good supervisory practice for a competent authority to provide that distributors carry out CPD. In particular, the IFoA agrees that such CPD should address a range of learning needs; including professional knowledge, ability and ethics. However, the proposals are focussed on the technical aspects of the role. The IFoA would ask EIOPA whether they believe the proposals should also include the development of professional and softer skills, such as effective communication and presentation skills?</p> <p>The IFoA also requires qualified members to undertake training or development that involves interaction with individuals who actuaries would not interact with in their normal working environment. The IFoA suggests that it is beneficial for CPD schemes to expose individuals to a wide range of views through involvement in external events.</p> <p>The IFoA considers that the proposals are too focused on the completion of CPD activities. The IFoA suggests that the proposals should have a greater emphasis on encouraging distributors to regularly assess their own development needs and to evaluate whether the CPD activities that they have completed address those needs.</p> <p>The IFoA recognises that there may be situations where it is appropriate to put in place sanctions for non-compliance. The IFoA operates a sanctions process for members who have not recorded their CPD appropriately. Members who fail to complete sufficient CPD may also be subject to disciplinary proceedings. Where sanctions are applied, it is important that this is done fairly and proportionately. In particular, the competent authority should ensure that the CPD requirements are not unduly burdensome and that distributors have a good understanding of their obligations.</p>	<p>Noted. The Report has been amended to refer to soft skills.</p> <p>Good recording of CPD is the basis (also referred to in the Report)</p> <p>External events should exclude roadshows focused on publicity only/</p> <p>Agree. The Report has been amended to reflect the fact that distributors should have a good understanding of their obligations.</p>
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116.	UNI Europa Finance	Q4.	<p>The proposed amendments to IMD II, listed under general remarks, stress the need to ensure that a sufficient level of qualifications must be ensured for staff providing insurance policies and that continuous training and competence development must be the responsibility of the company and not the individual employee. Therefore, under 4.2.3 "How?" this should be clearly stated.</p> <p>Further under 4.2.3 UNI Europa Finance believes that some caution is needed regarding e-learning as this may discourage insurance undertakings to carry out their duty to provide training to their staff. Every employee has the right to receive the training necessary to fulfil the job he/she is doing.</p> <p>4.3.12-13: Ensuring that adequate CPD is offered by the employer is further linked to the question of sanctions. An employee should never have to face sanctions for having followed internal rules. If the employer is made responsible for the further education of the staff then this problem is more easily avoided.</p>	<p>Noted, but a high variety of e-learning practices can be pursued.</p> <p>Noted, although this report does not deal with requirements as to who is responsible for the action of staff. It is up to Member States to implement any legal or regulatory act if deemed necessary, in accordance with national legislation.</p>
117.	Insurance and Reinsurance Stakeholder Group (IRSG)	Q5.	<p>The draft report acknowledges that Member States adopted very different rules in this regard.</p> <p>The IRSG, however, notes that EIOPA's suggestion could not be regarded as being included within the EC proposal on IMD2 that empowers Commission to adopt a delegated act on "the steps that insurance intermediaries and insurance undertakings might reasonably be expected to take to update their knowledge and ability through continuing professional development in order to maintain an adequate level of performance".</p> <p>Moreover, this suggestion could not be "covered" by the EIOPA's founding Regulation, which requires EIOPA to develop training standards for the industry, because the draft report has been addressed to national supervisory authorities.</p>	

			In any case, the IRSG supports professional requirements that are outcome-oriented rather than defining input requirements such as a given amount of training. Concrete learning outcomes and competences should be preferred to imposing a minimum number of training-hours, which is likely to result in additional burden and costs, without bringing any added value. The IRSG therefore believes that the specification of minimum professional requirements should be determined at national level.	<p>Noted. The Report has been amended to reflect the importance of an outcome-oriented approach.</p> <p>Agreed. There are many different standards at national level but an example of a minimum requirement is provided in order to encourage a "common supervisory approach".</p>
118.	Allianz SE	Q5.	We do not agree with the proposal of a minimum level of CPD in terms of hours. A certain number of hours for study activities during a defined period of time may be sufficient for a part-time intermediary or one working on ancillary basis, but may be insufficient for a full-time intermediary offering many different services and products. Prerequisites in terms of hours should primarily depend on the diversity of the services and products offered.	EIOPA is proposing a minimum level of CPD in terms of content. The minimum amount of hours is only one way to measure the level. National regulation can differentiate according to the type of intermediary.
119.	ANASF	Q5.	We believe that the minimum level of professional development should consider at least 30 hours of study, within one year, with an examination of the level achieved at the end of the training.	Noted. This could be an initiative in a second stage.
120.	Association of International Life Offices (AILO)	Q5.	Again in principle the suggestion is sound but needs to be proportionate to the activities carried out. For more complex forms of mediation such as investment life insurance which is subject to constant changes for example to tax and regulation then annual assessment would seem relevant though again competent authorities need to be aware of the risk of intermediaries having to spend disproportionate time on administrative and training matters to the detriment of their business activities.	<p>Noted. The proportionality principle and the possibility to link knowledge and ability to product complexity has been given more prominence in the Report.</p> <p>Disagree. CPD is complementary to business activities as it improves the outcomes of business activities.</p>
121.	BEUC	Q5.	There are crucial differences between Member States' insurance markets and training systems and no solution fits necessarily everyone. With regard to the proposal of 30 hours study activities within a period of 3 years, it is important to	The Report has been amended to reflect the importance of an outcome-oriented approach.

		<p>recognise that companies make use of different types of training methods. Both formal, informal and non-formal learning can play an important role, and it does not make sense to register the number of hours without considering content and quality. In our view, the requirement for continuous professional development needs to be linked to concrete outcomes rather than a set minimum amount of study activity. For example, in cases where there have been major changes in the market place, which could be in the form of new legislation or a change to the benefit system which for example can affect medical claims, 10 hours of study activities per year would be an inadequate amount and 30 hours in one year and no CPD activity in the following 2 years would also seem inappropriate. The guidelines should therefore stipulate learning outcomes and that completion of the required number of hours of study activities in itself does not constitute compliance with the CPD requirements.</p> <p>In addition to the outcomes set out in the consultation paper, CPD requirements should also include the treatment of customers in financial difficulties or with specific special needs.</p> <p>BEUC is also of the view that the training of intermediaries or employees of insurance undertakings and the control and assessment of their knowledge and skills will be carried out by a body certified by the national competent authorities and independent from insurance undertakings.</p> <p>We have doubts about the training quality when organised by the insurance undertaking without any external assessment. The training should preferably be organised by a body not directly or indirectly dependent from insurance undertakings. Such trainings are mainly sales-oriented and do not comply with legislation as regards the obligation to act honestly, fairly and professionally in accordance with the best interest of its customers like provided by Article 15.1. If trainings are organised by an insurance undertaking or an intermediation firm, Member States should set up an independent assessment</p>	
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			of the training programmes and the intermediary's knowledge and skills.	
122.	BIPAR (the European Federation of Insurance Intermediaries)	Q5.	BIPAR promotes the application of appropriate systems of continuous professional development. However, we believe that sufficient flexibility should be given to the Member States and in function of the situation and therefore we do not encourage a European standard (especially not when we are between IMD I and IMD II). As with the general training system, a specialist in marine insurance should not be obliged to know everything about motor insurance. On the other hand, everybody who is in contact with the public about any kind of insurance (in or out of IMD scope) should in one way or another be obliged to be trained for the duties he or she performs. Member States, in consultation and cooperation with industry bodies, need the freedom to arrange the practical implementation according to their national specificities, taking into consideration existing systems.	Noted. 30 hours over 3 years is not a standard, but an example of a minimum requirement. The hours and the content can be different for different type of distributors. Agreed. It is important to avoid <u>additional</u> administrative burden and costs.
123.	Central Bank of Ireland	Q5.	As set out in our comments above, we believe that a more structured approach to the frequency and duration of CPD requirements should form part of good practice guidelines. In Ireland, the Central Bank's Minimum Competency Code 2011 (MCC) moved away from a three-year cycle which included a mix of formal and informal CPD hours to an annual requirement of 15 formal hours of CPD.	Noted. 15 hours over 1 year would comply with 30 hours over 3 years. The Report has been amended to refer to the fact that it can be "an equivalent amount on annual basis".
124.	Danish Employers Association for the Financial Sec	Q5.	EIOPA's suggestion of 30 hours study activities within a period of 3 years (or an equivalent amount on an annual basis) is not up to date. It is important to recognize the fact that modern companies make use of different kinds of training methods to ensure CPD. Both formal, informal and non-formal learning play an important role, and it does not make sense to register the number of hours. It is important for the companies to have the flexibility to ensure CPD in a way that is in line with their business strategies and methods of CPD. Otherwise it can weaken their competitiveness. It is also important to note that the need for CPD varies depending on the development in	Agree that an outcome-oriented approach is important. The Report has been amended to reflect this. 30 hours over 3 years is not a standard, but an example of a minimum requirement. The hours and the content can be different for different type of distributors.

			<p>products, regulation, markets etc. In some periods a lot of professional development is needed and in other periods less professional development is needed.</p> <p>However, by requiring a certain level of training, and based on the logic that there are continuous developments within the designated areas, there will always be either too little or too much training. Therefore, the second option identified in the report that it can be a test, is much more flexible and output oriented. A test shows whether the employee is on the right professional level and not how or how much training he has achieved. A test will be in the interest for consumers, employees and corporates alike. Clause 4.2.3 and 4.3.1</p>	
125.	eficert (European Financial Certification Organisation)	Q5.	<p>Some sort of quantifiable measurement is necessary, as long as it stays output-oriented. This means that a purely quantifiable measurement is not appropriate and target oriented. We prefer to have CPD in a professional and output-oriented way respecting formal and non-formal education inside and outside of insurance companies as long as there is an external supervisory body, which is responsible for recognition.</p> <p>We are convinced that the national organisations of educational and vocational training find a professional way of getting valid instruments alongside their national systems to measure performed and achieved educational and vocational training.</p> <p>To define the exact amount of educational and vocational training as a national comparable measure is up to national organisations of educational and vocational training and their supervisory bodies. European regulations should only mention the fact, that achieving minimal standards is necessary in order to be able to get the registration.</p>	<p>Noted. The Report has been amended to reflect the fact that a wide range of possible (including output-oriented) solutions are possible.</p> <p>Agree</p>
126.	Eurofinas (The European	Q5.	<p>We fully agree with the need for proper training to achieve a high level of knowledge and ability. However, we believe that training requirements should primarily be directed to insurance</p>	<p>Agreed. The Report has been amended to reflect this point.</p>

	Federation of Finance House Associations)		<p>undertakings/insurance intermediaries that are in turn responsible for the activities of their distribution network.</p> <p>In the consumer credit sector, training schemes already in place enable finance companies to provide their partners with sufficient information/update to ensure a professional and high quality distribution of insurance products.</p> <p>We feel that further requirements would be disproportionate as to what is needed to distribute affordable and commonly used insurance products. Should a relevant national competent authority still wish to introduce new standards, training recently performed should be taken into account.</p>	
127.	European Federation of Financial Advisers and Financial Intermediaries (FECIF)	Q5.	This is a reasonable proposal.	Noted
128.	Danish Employers Association for the Financial Sector	Q5.	<p>EIOPA's suggestion of 30 hours study activities within a period of 3 years (or an equivalent amount on an annual basis) is not up to date. It is important to recognize the fact that modern companies make use of different kinds of training methods to ensure CPD. Both formal, informal and non-formal learning play an important role, and it does not make sense to register the number of hours. It is important for the companies to have the flexibility to ensure CPD in a way that is in line with their business strategies and methods of CPD. Otherwise it can weaken their competitiveness. It is also important to note that the need for CPD varies depending on the development in products, regulation, markets etc. In some periods a lot of professional development is needed and in other periods less professional development is needed.</p> <p>However, by requiring a certain level of training, and based on the logic that there are continuous developments within the</p>	Noted. The Report has been amended to reflect the importance of an outcome-oriented approach.

			designated areas, there will always be either too little or too much training. Therefore, the second option identified in the report that it can be a test, is much more flexible and output oriented. A test shows whether the employee is on the right professional level and not how or how much training he has achieved. A test will be in the interest for consumers, employees and corporates alike. Clause 4.2.3 and 4.3.1	
129.	Federation of Finnish Financial Services	Q5.	We feel the report should not set specific requirements for certain level of study hours during a certain period of time. Current training systems in the insurance companies take different forms and are based on different methods. The development of it-systems will in the near future have an impact on the ways and possibilities to create new learning environments and the ways to monitor them. Flexible EIOPA supervisory practices will provide good basis for this development.	Noted
130.	FFSA	Q5.	First of all, the FFSA would like to insist on the costs involved by professional training. The EIOPA's suggestion, as an example of a minimum level of CPD, of 30 hours study activities within a period of 3 years for all insurance distributors should not be a "one size fits all" approach rule. In this area, the distributor's activity should be taken into account (independent or not, ancillary basis or not...) as well as national labour rules for professional training for employees.	Agree. The proposal is not intended as a "one-size-fits all", but as an example of a minimum requirement. It has been mentioned in the Report that an outcome-oriented approach is equally important. The Report has also been amended to give more prominence to the principle of proportionality, including whether the distributor's activity involves ancillary business.
131.	German Insurance Association	Q5.	This suggestion is not appropriate to lay the foundation for consensus at European level. Stipulating a minimum requirement of a certain amount of hours for all intermediaries does not take account of the nature, scope and depth of the advisory and mediation process. Frequent and continuous professional development should take place at various levels of quality and quantity, which take account of the different statuses and activity profiles of insurance intermediaries in the individual Member States. A certain amount of hours may be	The proposal on the amount of CPD is not intended as one-size-fits-all but as an example of a minimum requirement. The competent authority is free to determine how to measure CPD. In addition, national regulation can differentiate according to different types of distributor or activity.

			sufficient for an intermediary working part-time or for product-accessory intermediaries, but it may not be sufficient for full-time and full-range intermediaries. Timely requirements should mainly depend on the diversity of the product range to be distributed. Part-time or product-accessory intermediaries will usually have less need for professional development than full-time intermediaries.	
132.	Insurance Europe	Q5.	<p>We are concerned that specifying a minimum level of CPD such as the 30 hours of study activities within a period of 3 years outlined in the consultation, could allow some insurance distributors to focus on the quantity of CPD hours to achieve the minimum requirement with less regard to the quality or appropriateness of such study for the activity undertaken. There must also be care taken to ensure that the oversight does not prove unduly burdensome to the competent authority. It is more efficient to seek to ensure a certain level of professionalism and at the same time allow flexibility and leave the specification of minimum professional requirements to be determined at national level. Professional requirements should be outcome-oriented rather than defining input requirements (such as a given amount of training hours). Concrete learning outcomes and competences should be preferred to imposing a minimum number of training hours, which is likely to result in additional burden and costs, without bringing any added-value.</p> <p>Furthermore, it is important to recognize the fact that modern companies make use of different kinds of training methods to ensure CPD. Both formal and informal learning play an important role, and it does not make sense to register the number of hours. It is important for the companies to have the flexibility to ensure CPD in a way that is in line with their business strategies and methods of CPD, as otherwise it can weaken their competitiveness. It is also important to note that the need for CPD varies depending on the development in products, regulation, markets etc.</p>	Agreed. The Report has been amended to reflect the importance of an outcome-oriented approach.

133.	Insurance Sweden	Q5.	Insurance Sweden regards the minimum level of CPD suitable for intermediaries or sellers working full-time with customers within the area of investment and pensions. The minimum level is not admissible in most other areas and especially not for intermediaries who work on an ancillary basis. Education comes with a cost, that has to be regarded.	Noted.
134.	Leaseurope	Q5.	<p>The detailed requirement for a vehicle rental/leasing staff member to spend 30 hours over a three year period studying detailed insurance information would be completely disproportionate to what is actually required to enable those staff members to provide clear information to the client about what is in the final analysis is a simple and affordable optional cover.</p> <p>In terms of CPD it is difficult to specify a number of hours and a time frame, as there may be for example no regulatory/product changes within the stated three year period, hence no continuous professional development may be relevant.</p> <p>We do acknowledge that if the 'ancillary' intermediary begins to offer a new product then training will be required to learn about that product etc.</p> <p>Overall we support the concept of CPD but only where required and of relevance. Stipulating a high level standard that fails to take into account the diversity of the insurance mediation sector is a disproportionate step.</p> <p>We support point 4.3.1 (page 26 of the Draft Report) which deals with the duration and frequency of CPD and states that such CPD should be dependent on the complexity, difficulty and frequency of new developments in industry, for example new regulatory requirements or products.</p>	Noted. The Report has been amended regarding ensuring a proportionate approach to ancillary business. 30 hours over 3 years is intended as an example of a minimum requirement.

135.	Nordic Financial Unions (NFU)	Q5.	<p>Recognising the need for providing guidelines, NFU rather supports a concrete outcome-oriented approach rather than defining a certain number of hours as this is solely a quantitative measure. The focus should rather be on the levels, how the national authorities set up the tests ensuring that they live up to the educational level of NQF 3.</p> <p>Every three years is a reasonable period.</p>	
136.	RSA Insurance Group plc	Q5.	<p>We believe it should be for each Member State to determine CPD levels tailored to the activities of relevant intermediaries in its territory. A minimum level set by EIOPA will have little benefit as for some sectors it will be insufficient whilst for others it will be too much. It is better therefore for each Member State to determine what this should be.</p> <p>When passporting, provided an intermediary has complied with CPD requirements in its Home State, then there should be no additional CPD in the Host State. This is dependent however on the activities in both Home and Host State being the same.</p> <p>We believe that references to CPD activity in the paper appear skewed towards structured activities, for example conferences, courses and exercises. In our view, a further important CPD activity concerns personal research and self-development. Provided there is evidence that such activity has taken place (for example a report on a new product) this should be allowed to count as CPD. Although we believe it is for competent authorities to determine quantum and scores for such activity, we believe the EIOPA paper should for completeness make specific reference to the acceptability of personal research and development as something Competent Authorities should view as valid CPD.</p> <p>Finally, we believe there is a need to emphasise more prominently that internal training activity by a firm is valid CPD. For many firms this is the key means through which training and development occurs, yet the focus of the paper places more emphasis on external structured activity.</p>	<p>Disagree. EIOPA is proposing a minimum level in terms of content. The competent authority is free to determine how to measure CPD.</p> <p>Agree. Article 4(1), IMD1 establishes the rule that possession of appropriate knowledge and ability by an intermediary should be determined by the home Member State.</p>

137.	The UK Chartered Insurance Institute	Q5.	This is probably the one area where the EIOPA report falls slightly short. While the report correctly takes an hours-based rather than points-based approach to CPD, the 30 hours of activities within a three-year period is very minimalist by CII standards. It does constitute a start, and agreeing this at an EU level would be a positive start. However our experience from a public interest perspective is that on-going learning in such a fast-changing environment as insurance and financial services may require a level of hours much more realistic than just ten per year.	Agree. 30 hours over 3 years is only a starting point.
138.	UK Financial Services Consumer Panel	Q5.	30 hours study over 3 years appears a very low standard of CPD. Within the UK, for example, CII members must undertake a minimum of 35 hours CPD for each 12 month period. The Panel believes this is therefore demonstrably a reasonable target, and would recommend this as a minimum.	Agree. 30 hours over 3 years is purely a starting point for a minimum requirement to promote a more common supervisory approach.
139.	UK Institute and Faculty of Actuaries	Q5.	<p>The IFoA requires its members to carry out 15 – 30 hours of CPD activity each year depending on the role they are carrying out. While this is in excess of the suggested 10 hours per year, the IFoA considers that a more onerous requirement may not always be appropriate. Sufficient discretion should be afforded to the competent authority to set requirements in excess of 10 hours per year if considered appropriate.</p> <p>While the IFoA appreciates that there may be merit in setting a minimum standard for CPD, the IFoA strongly agrees that distributors should be encouraged to carry out CPD beyond the minimum standard, where they feel it is necessary to meet their learning needs.</p> <p>The IFoA considers that a 3–5 year cycle is too long and suggest that learning needs should be reviewed more regularly. The IFoA currently operates a yearly cycle, and while this may not be appropriate for all competent authorities, the IFoA considers that if a 5 year cycle is used, distributors may be less inclined to review their learning needs on a regular basis.</p>	<p>Agree. 30 hours over 3 years is only a starting point.</p> <p>Agree that distributors should be encouraged to carry out CPD beyond the minimum standard.</p>

140.	UNI Europa Finance	Q5.	Recognising the need for providing guidelines, UNI Europa Finance rather supports a concrete outcome-oriented approach rather than defining a certain number of hours as this is solely a quantitative measure.	Agreed. The Report has been amended to reflect the importance of an outcome-oriented approach.
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