



The Dutch Association of insurers calls for adjustments in the Retail Investment Strategy proposals

- *The requirements with respect to the annual statement must only be applicable to newly agreed-upon retail investment products after entry into force of RIS.*
- *Exemptions from value for money and best interest of customer requirements should be part of the Member State option as laid down in article 29 (3), Directive (EU) 2016/97 IDD.*

The Dutch Association of Insurers welcomes the proposals of the European Commission with respect to the Retail Investments Strategy (RIS). We fully support the goals of the RIS in the broader context of the Capital Markets Union.

The core proposals aimed at improving value for money (VfM) and to address conflicts of interests come with (unintended) negative consequences for NL market. The Commission has identified a number of significant problems. In particular shortcomings in the way products are manufactured and distributed, linked to conflicts of interest that may arise as a result of the payment of inducements between product manufacturers and distributors. As well as the problem of unjustifiable high levels of costs. The core RIS proposals aim to tackle these problems. In our view these problems are not applicable to the Netherlands since the introduction of the commission ban (2013/2014). The Dutch commission ban is applicable to all distribution channels including independent advice and execution only. A part of the ban is that it is only applicable for retail investment products sold after the introduction of the ban.

Transparency concerns

- **Articles 29(2) and (3) (Annual statement)**
- **Recommendation:** *it is essential for the Dutch but also the European Insurance market that the proposal in article 29(2) and (3) should only be applicable to newly agreed-upon retail investment products after the entry into force of the RIS.*

Argumentation:

- a. In The Netherlands existing customers receive an annual statement with information about the paid premiums, all costs the insurance undertaking charged and the revenues of the funds over the last year. In this statement the customers also get performance scenarios at the maturity date. Those performance scenarios, which apply to new contracts entered into after January 1, 2018, are based on calculating techniques used by domestic laws and PRIIP's level II. Applying new calculation methods for performance scenarios to existing products is very confusing for consumers. And it will be worse if the layout and terminology also changes because of a new Union-wide standard.
- b. It is not possible to provide costs in monetary terms, like the ongoing charges figure of the (third party) asset manager since the start of the insurance for existing products. Simply said, the insurance companies only have the information available that was required by law that was applicable at the time the product was sold to the client. Other information needed to meet the new regulation is not available.
- c. Calculating actual fund management costs, especially in monetary terms, (for existing and new products) is complex and not possible without accepting a margin for error.

Furthermore, the annual reports of the fund managers are late, not machine readable and don't always provide all the required details at a single fund level if we refer to transaction costs, performance fees and carried interests et cetera. There needs to be space for suppositions and uncertainty.

Points a. and b. necessitate that the provisions should only apply to new products to be concluded.

Request for exemptions (a RIS light regime) including value for money and pricing process & request exemptions for best interest of customer requirements

- **Article 25 (Value for Money/pricing process/benchmark)**
- **Article 29b best interest of customer**
- **Recommendations:** Exemptions from *Value for Money* and *Best interest of customer* requirements should be part of the Member State option as laid down in article 29 (3), Directive (EU) 2016/97, IDD.

[Artikel 29 \(3\) Directive \(EU\) 2016/97, IDD](#)

Member States may impose stricter requirements on insurance intermediaries and insurance undertakings in respect of the matters covered by this Article. In particular, Member States may additionally prohibit or further restrict the offer or acceptance of fees, commissions or non-monetary benefits from third parties in relation to the provision of insurance advice. Stricter requirements may include requiring any such fees, commissions or non-monetary benefits to be returned to the customers or offset against fees paid by the customer.

The stricter requirements of a Member State referred to in this paragraph shall be complied with by all insurance intermediaries or insurance undertakings, including those operating under the freedom to provide services or the freedom of establishment, when concluding insurance contracts with customers having their habitual residence or establishment in that Member State.

Argumentation: the proposed POG amendments are to ensure that undue costs are not charged and that products deliver VfM. The proposed rules aim at a problem that does not exist in NL market due to the modernizing of the distribution system for more than 10 years now. The VfM proposals are introduced as the fallback policy option within the staged approach.

There is no legal guarantee in RIS that the reporting requirements will be kept to a minimum. We fear that at Level 2 the reporting requirements will be more detailed and burdensome. There is a risk that insurers need to invest in new systems when it is not possible to build on data which is already available.

The current POG requirements in combination with the EIOPA methodology on VfM (three layered approach, October 2022) are an adequate safeguard. We see this as the baseline which in our view should be sufficient for markets that are cost-efficient and have introduced a commission ban. The current EIOPA VfM methodology can be of useful support not only for NCAs, but also for insurers and distributors when performing their VfM assessments to determine whether their products are aligned with the target market's needs, objectives and characteristics before they bring them to the market or when performing product reviews.

EIOPA reported that NCAs can use the methodology as a basis to assess VfM. EIOPA concludes that after the finalization of the three layers analysis, it is expected that a conclusive decision on whether products offer VfM to their identified target market will be reached.

The proposed "*Best interest of customer*" principle is supposed to replace the current IDD obligation that inducements should not have a detrimental effect on the quality of the service to the customer (recital 6). In NL inducements are banned and conflicts of interest are removed. Therefore, the new uniform (IDD and MiFID II) text in article 29b, introduced to tackle conflicts of interest due to inducements, makes no sense at all.

Other comments on the RIS proposals

Article 20 (8a) (IPID for life insurance products other than IBIPS): The introduction of an IPID for life products should only be applicable for new life insurance products (closed after date of adoption) other than IBIPS and only contain non-personalized information.

Article 30 (1) (suitability test “light”): When advice is provided on an independent basis, but restricted to a well-diversified, non-complex and cost-efficient product there is no obligation to obtain information on the customers knowledge and experience or on the consumers portfolio composition. We welcome this approach as it will decrease advice costs and enhance access to advice.

Article 30 (2) (new requirement for appropriateness test): In this article the appropriateness test, where no advice is given, is extended with a new requirement to ask the customer to provide information regarding his or her capacity to bear full or partial losses and risk tolerance. It will be difficult to assess whether the product is appropriate for the customer without knowing the complete financial situation of the customer. The effect of the new requirement is that boundaries between execution only (no advice and the new appropriateness test) and regulated advice (on an independent of) are blurring. Execution-only services run the risk of becoming complicated in practice and costing more money. As a consequence, execution only services, which can have value for certain consumers groups, will be driven out of the market. We are asking not to introduce the new requirement. A Member State option for mandatory advice is already captured in article 30 (5a).

Article 30 (5b) (advice on an independent basis): The proposed inducement ban for independent advice is already captured in NL commission ban which is applicable for all distribution channels including independent advice. The requirements in article 30 (5d) seem to be based on MiFID II and there is a discrepancy with the current IDD definition of advice on the basis of a fair and personal analysis. In article 2 (15) IDD the following definition of advice is provided: “‘advice’ means the provision of a personal recommendation to a customer, either upon their request or at the initiative of the insurance distributor, in respect of one or more insurance contracts”.