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*Committee on Legal Affairs*

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**2012/0175(COD)**

18.1.2013

# **DRAFT OPINION**

of the Committee on Legal Affairs

for the Committee on Economic and Monetary Affairs

on the proposal for a directive of the European Parliament and of the Council  
on insurance mediation (recast)  
(COM(2012)0360 – C7-0180/2012 – 2012/0175(COD))

Rapporteur: Klaus-Heiner Lehne

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## AMENDMENTS

The Committee on Legal Affairs calls on the Committee on Economic and Monetary Affairs, as the committee responsible, to incorporate the following amendments into its report:

### **Amendment 1** **Proposal for a directive** **Recital 2**

#### *Text proposed by the Commission*

(2) Since the main objective and subject-matter of this proposal is to harmonise national provisions concerning the mentioned areas, the proposal should be based on Article 53(1) and 62 TFEU. The form of a Directive is appropriate in order to enable the implementing provisions in the areas covered by this Directive, when necessary, to be adjusted to any existing specificities of the particular market and legal system in each Member State. This Directive should also aim at coordinating national rules concerning the access to the activity of insurance and reinsurance mediation *including professional management of claims and loss adjusting*, and is therefore based on Article 53(1) of the Treaty. In addition, since this is a sector offering services across the Union, this Directive is also based on Article 62 of the Treaty.

#### *Amendment*

(2) Since the main objective and subject-matter of this proposal is to harmonise national provisions concerning the mentioned areas, the proposal should be based on Article 53(1) and 62 TFEU. The form of a Directive is appropriate in order to enable the implementing provisions in the areas covered by this Directive, when necessary, to be adjusted to any existing specificities of the particular market and legal system in each Member State. This Directive should also aim at coordinating national rules concerning the access to the activity of insurance and reinsurance mediation and is therefore based on Article 53(1) of the Treaty. In addition, since this is a sector offering services across the Union, this Directive is also based on Article 62 of the Treaty.

Or. en

### **Amendment 2** **Proposal for a directive** **Recital 6**

*Text proposed by the Commission*

*Amendment*

**(6) In order to guarantee that the same level of protection applies regardless of the channel through which consumers buy an insurance product, either directly from an insurance undertaking or indirectly from an intermediary, the scope of the Directive needs to cover not only insurance undertakings but other market participants who sell insurance products on an ancillary basis (e.g. travel agents and car rental companies, suppliers of goods not meeting conditions for the exemption).**

*deleted*

Or. en

**Amendment 3  
Proposal for a directive  
Recital 7**

*Text proposed by the Commission*

*Amendment*

(7) This Directive should apply to persons whose activity consists of assisting (whether on behalf of a customer or an insurance undertaking) in the administration and performance of a contract of insurance or reinsurance, **including the professional management of claims, or of loss adjusting or the expert appraisal of claims.**

(7) This Directive should apply to persons whose activity consists of assisting (whether on behalf of a customer or an insurance undertaking) in the administration and performance of a contract of insurance or reinsurance.

Or. en

**Amendment 4  
Proposal for a directive  
Recital 12**

*Text proposed by the Commission*

*Amendment*

(12) This Directive should not apply to

(12) This Directive should not apply to

persons with another professional activity, such as tax experts or accountants, who provide advice on insurance cover on an incidental basis in the course of that other professional activity, neither should it apply to the mere provision of information of a general nature on insurance products, provided that the purpose of that activity is not to help the customer conclude or fulfil an insurance or reinsurance contract.

persons with another professional activity, such as tax experts or accountants, who provide advice on insurance cover on an incidental basis in the course of that other professional activity, neither should it apply to the mere provision of information of a general nature on insurance products, provided that the purpose of that activity is not to help the customer conclude or fulfil an insurance or reinsurance contract ***nor the professional management of claims for an insurance or reinsurance undertaking, nor the loss adjusting and expert appraisal of claims.***

Or. en

**Amendment 5**  
**Proposal for a directive**  
**Recital 20**

*Text proposed by the Commission*

***(20) Member States should not apply the registration requirements to insurance intermediaries which conduct insurance mediation in relation to certain types of insurance contract on an ancillary basis or to professional management of claims, loss adjusting or expert appraisal of claims, provided that they comply with the requirements of this Directive as to knowledge and ability and good repute and the applicable information and conduct of business requirements, and a declaration of activity has been submitted to the competent authority.***

*Amendment*

***deleted***

Or. en

**Amendment 6**  
**Proposal for a directive**  
**Recital 22**

*Text proposed by the Commission*

(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.

*Amendment*

(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 ***and*** of the employees of direct insurers needs to ***enable them to complete their tasks and perform their duties adequately***. Continuing education should be ensured.

Or. en

**Amendment 7**  
**Proposal for a directive**  
**Recital 31**

*Text proposed by the Commission*

***(31) In order to mitigate conflicts of interest between the seller and the buyer of an insurance product, it is necessary to ensure sufficient disclosure of remuneration of insurance distributors. Accordingly, for life insurance products, the intermediary and the employee of the insurance intermediary or the insurance undertaking should be obliged to inform the customer about its remuneration, in advance of the sale. For other insurance products, subject to a transitional period of 5 years, the customer must be informed of the customer's right to request this information, which must be provided to the customer upon request.***

*Amendment*

***deleted***

Or. en

**Amendment 8**  
**Proposal for a directive**  
**Recital 32**

*Text proposed by the Commission*

*Amendment*

***(32) In order to provide a customer with comparable information on the insurance mediation services provided regardless of whether the customer purchases through an intermediary, or directly from an insurance undertaking, and to avoid the distortion of competition by encouraging insurance undertakings to sell direct to customers rather than via intermediaries in order to avoid information requirements, insurance undertakings should also be required to provide information about remuneration to customers with whom they deal directly in the provision of insurance mediation services about the remuneration they receive for the sale of insurance products.***

*deleted*

Or. en

**Amendment 9**  
**Proposal for a directive**  
**Recital 43**

*Text proposed by the Commission*

*Amendment*

(43) In order to ensure compliance with the provisions of this Directive by insurance undertakings and persons who pursue insurance mediation, and to ensure that they are subject to similar treatment across the Union, Member States should be required to provide for administrative sanctions and measures which are effective, proportionate and dissuasive. A review of existing powers and their practical application has been carried out with the aim of promoting convergence of

(43) In order to ensure compliance with the provisions of this Directive by insurance undertakings and persons who pursue insurance mediation, and to ensure that they are subject to similar treatment across the Union, Member States should be required to provide for administrative sanctions and measures which are effective, proportionate and dissuasive. A review of existing powers and their practical application has been carried out with the aim of promoting convergence of

sanctions and measures in the Commission Communication of 8 December 2010 on reinforcing sanctioning regimes in the financial sector. *Therefore, administrative sanctions and measures laid down by Member States should satisfy certain essential requirements in relation to addressees, criteria to be taken into account when applying a sanction or measure, publication, key sanctioning powers and levels of administrative pecuniary sanctions.*

sanctions and measures in the Commission Communication of 8 December 2010 on reinforcing sanctioning regimes in the financial sector.

Or. en

**Amendment 10**  
**Proposal for a directive**  
**Recital 44**

*Text proposed by the Commission*

*Amendment*

*(44) In particular, the competent authorities should be empowered to impose pecuniary sanctions which are sufficiently high to offset the benefits that can be expected and to be dissuasive even for larger institutions and their managers.*

*deleted*

Or. en

**Amendment 11**  
**Proposal for a directive**  
**Recital 46**

*Text proposed by the Commission*

*Amendment*

*(46) In order to strengthen the dissuasive effect on the public at large and to inform about breaches of rules which may be detrimental to customer protection, sanctions and measures imposed should be published, except in certain well-defined circumstances. In order to ensure compliance with the principle of*

*deleted*

*proportionality, sanctions and measures imposed should be published on an anonymous basis where publication would cause a disproportionate damage to the parties involved.*

Or. en

**Amendment 12**  
**Proposal for a directive**  
**Recital 50**

*Text proposed by the Commission*

*Amendment*

*(50) In order to attain the objectives set out in this Directive, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of details concerning notions of adequate knowledge and competence of the intermediary, management of conflicts of interest, conduct of business obligations in relation to insurance packaged retail investment products and procedures and forms for submitting information in relation to sanctions. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.*

*deleted*

Or. en

**Amendment 13**  
**Proposal for a directive**  
**Recital 52**

*Text proposed by the Commission*

(52) ***By means of delegated acts pursuant to Articles 290 and 291 of the Treaty on the Functioning of the European Union and*** in accordance with Articles 10 to 15 of 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 Commission should adopt ***delegated acts as set out in Articles [8] regarding notions of adequate knowledge and ability of the intermediary, Article [17 and 23] regarding management of conflicts of interest and Articles [24 and 25] regarding conduct of business obligations in relation to insurance packaged retail investment products as well as*** implementing technical standards as set out in Article [30] regarding procedures and forms for submitting information in relation to sanctions. These ***delegated acts and*** implementing technical standards should be developed in draft by EIOPA.

*Amendment*

(52) In accordance with Articles 10 to 15 of 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 Commission should adopt implementing technical standards as set out in Article [31] regarding procedures and forms for submitting information in relation to sanctions. These implementing technical standards should be developed in draft by EIOPA.

Or. en

**Amendment 14**  
**Proposal for a directive**  
**Article 1 – paragraph 1**

*Text proposed by the Commission*

1. This Directive lays down rules concerning the taking-up and pursuit of the activities of insurance and reinsurance mediation, ***including professional management of claims and loss adjusting,*** by natural and legal persons which are established in a Member State or which wish to be established there.

*Amendment*

1. This Directive lays down rules concerning the taking-up and pursuit of the activities of insurance and reinsurance mediation by natural and legal persons which are established in a Member State or which wish to be established there.

*Justification*

*The inclusion of the activities of professional management of claims and loss adjusting in the scope of the directive is not justified. These activities do not relate to the selling of insurance products and cannot be considered insurance mediation activities. Moreover, these activities are already sufficiently covered by national legislation.*

**Amendment 15**  
**Proposal for a directive**  
**Article 1 – paragraph 2 – point e**

*Text proposed by the Commission*

(e) the insurance is complementary to **goods** supplied by any provider, where such insurance covers **the risk of breakdown, loss of or damage to the goods supplied by that provider ;**

*Amendment*

(e) the insurance is complementary to **the product or service** supplied by any provider, where such insurance covers:

*Justification*

*The exception for complementary insurances covering damage to or loss of baggage and other risks linked to the travel booked with that provider which was already contained in IMD1 should be upheld. Such insurances are usually simple products with low premium and short duration. The inclusion of such complementary insurances into the scope of the directive is therefore not necessary.*

**Amendment 16**  
**Proposal for a directive**  
**Article 1 – paragraph 2 – point e – point i (new)**

*Text proposed by the Commission**Amendment*

**i) the risk of breakdown, loss of or damage to goods supplied by that provider, or**

*Justification*

*The exception for complementary insurances covering damage to or loss of baggage and other risks linked to the travel booked with that provider which was already contained in IMD1 should be upheld. Such insurances are usually simple products with low premium and short duration. The inclusion of such complementary insurances into the scope of the directive is therefore not necessary.*

**Amendment 17**

**Proposal for a directive**

**Article 1 – paragraph 2 – point e – point ii (new)**

*Text proposed by the Commission*

*Amendment*

***ii) damage to or loss of baggage and other risks linked to the travel booked with that provider, even if the insurance covers life assurance or liability risks, provided that the cover is ancillary to the main cover for the risks linked to that travel;***

Or. en

*Justification*

*The exception for complementary insurances covering damage to or loss of baggage and other risks linked to the travel booked with that provider which was already contained in IMD1 should be upheld. Such insurances are usually simple products with low premium and short duration. The inclusion of such complementary insurances into the scope of the directive is therefore not necessary.*

**Amendment 18**

**Proposal for a directive**

**Article 1 – paragraph 2 – point f**

*Text proposed by the Commission*

*Amendment*

(f) the amount of the annual premium for the insurance contract, when pro-rated to produce an annual amount, does not exceed **EUR 600** .

(f) the amount of the annual premium for the insurance contract, when pro-rated to produce an annual amount, does not exceed **EUR 1000** .

Or. en

**Amendment 19**  
**Proposal for a directive**  
**Article 2 – point 3 – subparagraph 1**

*Text proposed by the Commission*

3. ‘insurance mediation’ means the activities of advising on, proposing or carrying out other work preparatory to the conclusion of contracts of insurance, concluding such contracts or assisting in the administration and performance of such contracts, in particular in the event of a claim, **and the activity of professional management of claims and loss adjusting**. These activities shall be considered to be insurance mediation also if carried on by an insurance undertaking without the intervention of an insurance intermediary.

*Amendment*

3. ‘insurance mediation’ means the activities of advising on, proposing or carrying out other work preparatory to the conclusion of contracts of insurance, **or of** concluding such contracts or assisting in the administration and performance of such contracts, in particular in the event of a claim. These activities shall be considered to be insurance mediation also if carried on by an insurance undertaking without the intervention of an insurance intermediary.

Or. en

**Amendment 20**  
**Proposal for a directive**  
**Article 2 – point 3 – subparagraph 2 – point a a (new)**

*Text proposed by the Commission*

***(aa) the management of claims of an insurance undertaking on a professional basis, and loss adjusting and expert appraisal of claims;***

*Amendment*

Or. en

**Amendment 21**  
**Proposal for a directive**  
**Article 2 – point 6 – subparagraph 1**

*Text proposed by the Commission*

6. ‘reinsurance mediation’ means the activities of advising on, proposing or carrying out other work preparatory to the

*Amendment*

6. ‘reinsurance mediation’ means the activities of advising on, proposing or carrying out other work preparatory to the

conclusion of contracts of reinsurance, of concluding such contracts or assisting in the administration and performance of such contracts, in particular in the event of a claim, **and the activity of professional management of claims and loss adjusting**. These activities shall be considered to be reinsurance mediation also if carried on by a reinsurance undertaking without the intervention of a reinsurance intermediary.

conclusion of contracts of reinsurance, **or** of concluding such contracts or assisting in the administration and performance of such contracts, in particular in the event of a claim. These activities shall be considered to be reinsurance mediation also if carried on by a reinsurance undertaking without the intervention of a reinsurance intermediary.

Or. en

**Amendment 22**  
**Proposal for a directive**  
**Article 2 – point 6 – subparagraph 2– point a (new)**

*Text proposed by the Commission*

*Amendment*

***(aa) the management of claims of a reinsurance undertaking on a professional basis, and loss adjusting and expert appraisal of claims;***

Or. en

**Amendment 23**  
**Proposal for a directive**  
**Article 4**

*Text proposed by the Commission*

*Amendment*

***Article 4***

***deleted***

***Declaration procedure for providing ancillary insurance mediation; professional management of claims or loss assessment services***

***1. The registration requirements in Article 3 shall not apply to an insurance intermediary which conducts insurance mediation on an ancillary basis, provided that its activities meet all the following conditions:***

*(a) the principal professional activity of the insurance intermediary is other than insurance mediation;*

*(b) the insurance intermediary only mediates certain insurance products that are complementary to a product or service and clearly identifies them in the declaration;*

*(c) the insurance products concerned do not cover life assurance or liability risks, unless that cover is incidental to the main cover.*

*2. The registration requirements in Article 3 shall not apply to insurance intermediaries whose sole activity is professional management of claims or loss assessment services.*

*3. Any insurance intermediary who is subject to paragraphs 1 and 2 of this Article shall submit to the competent authority of its home Member State a declaration whereby it informs the competent authority of its identity, address and professional activities.*

*4. Intermediaries who are subject to paragraphs 1 and 2 of this Article shall be subject to the provisions of Chapters I, III, IV, V, VIII, IX and Articles 15 and 16 of this Directive.*

Or. en

#### *Justification*

*With the exclusion of the activities of professional management of claims and loss adjusting from the scope of the directive and the re-inclusion of the exception in Article 1 paragraph 2 point e), the declaration procedure is deprived of its main purpose and should therefore be deleted.*

**Amendment 24**  
**Proposal for a directive**  
**Article 8 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

*Amendment*

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*** .

1. Insurance and reinsurance intermediaries 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.

Or. en

*Justification*

*It is important that intermediaries and members of staff of insurance undertakings possess the appropriate knowledge and ability to complete their tasks adequately. The additional requirement of demonstrating appropriate professional experience should, however, be deleted. Otherwise, access to the profession of insurance intermediaries would become practically impossible.*

**Amendment 25**

**Proposal for a directive**

**Article 8 – paragraph 8 – introductory wording**

*Text proposed by the Commission*

*Amendment*

8. The ***Commission shall be empowered to adopt delegated acts in accordance with Article 33. Those delegated acts*** shall specify

8. The ***Member States*** shall specify:

Or. en

**Amendment 26**  
**Proposal for a directive**  
**Article 8 – paragraph 8 a (new)**

*Text proposed by the Commission*

*Amendment*

***8a. For the mutual recognition of adequate knowledge and skills acquired by insurance and reinsurance mediators and insurance company employees performing insurance mediation activities and in particular their professional qualifications, a national qualification accredited to level 3 or above under the European Qualifications Framework for lifelong learning established under the Recommendation of the European Parliament and Council of 23 April 2008 shall 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 accordance with this Directive.***

Or. en

*Justification*

*In order to avoid fragmentation of the internal market, minimum requirements regarding knowledge and abilities applicable to all Member States should be established on the basis of the European Qualifications Framework.*

**Amendment 27**  
**Proposal for a directive**  
**Article 13 – paragraph 1 – introductory wording**

*Text proposed by the Commission*

*Amendment*

1. Member States shall ensure the setting-up of appropriate, effective, impartial and independent complaints and redress procedures for the out-of-court settlement of disputes between insurance intermediaries and **customers**, and between insurance undertakings and **customers**,

1. Member States shall ensure the setting-up of appropriate, effective, impartial and independent complaints and redress procedures for the out-of-court settlement of disputes between insurance intermediaries and **consumers**, and between insurance undertakings and

using existing bodies where appropriate. Member States shall further ensure that all insurance undertakings and insurance intermediaries participate in the procedures for the out-of-court settlement of disputes where the following conditions are met:

*consumers*, using existing bodies where appropriate. Member States shall further ensure that all insurance undertakings and insurance intermediaries participate in the procedures for the out-of-court settlement of disputes where the following conditions are met:

Or. en

**Amendment 28**  
**Proposal for a directive**  
**Article 17 – paragraph 1 – point f**

*Text proposed by the Commission*

*Amendment*

***(f) if the intermediary will receive a fee or a commission of any kind, the full amount of the remuneration concerning the insurance products being offered or considered or, where the precise amount is not capable of being given, the basis of calculation of all the fee or commission or the combination of both;***

***deleted***

Or. en

*Justification*

*Excessively detailed disclosures can be confusing for consumers. The disclosure of the amount of the remuneration and the nature and the basis of the calculation of any variable remuneration does not contribute to customer protection.*

**Amendment 29**  
**Proposal for a directive**  
**Article 17 – paragraph 1 – point g**

*Text proposed by the Commission*

*Amendment*

***(g) if the amount of the commission is based on the achievement of agreed targets or thresholds relating to the business placed by the intermediary with an insurer, the targets or thresholds as***

***deleted***

***well as the amounts payable on the achievement of them.***

Or. en

*Justification*

*Excessively detailed disclosures can be confusing for consumers. The disclosure of the amount of the remuneration and the nature and the basis of the calculation of any variable remuneration does not contribute to customer protection.*

**Amendment 30  
Proposal for a directive  
Article 17 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

***2. By derogation from paragraph 1 (f) for five years from the date on which this Directive comes into force, the intermediary of insurance contracts other than contracts in any of the classes specified in Annex I of Directive 2002/83/EC, shall, prior to the conclusion of any such insurance contract, if the intermediary is to be remunerated by a fee or commission,*** ***deleted***

***(a) provide the customer with the amount or, where the precise amount is not capable of being given, the basis of calculation of the fee or commission or the combination of both, if the customer so requests.***

***(b) inform the customer of his right to request the information referred to in point (a).***

Or. en

*Justification*

*Excessively detailed disclosures can be confusing for consumers. The disclosure of the amount of the remuneration and the nature and the basis of the calculation of any variable remuneration does not contribute to customer protection.*

**Amendment 31**  
**Proposal for a directive**  
**Article 17 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

**3. The insurance undertaking or insurance intermediary shall also inform the customer about the nature and the basis of the calculation of any variable remuneration received by any employee of theirs for distributing and managing the insurance product in question.** *deleted*

Or. en

*Justification*

*Excessively detailed disclosures can be confusing for consumers. The disclosure of the amount of the remuneration and the nature and the basis of the calculation of any variable remuneration does not contribute to customer protection.*

**Amendment 32**  
**Proposal for a directive**  
**Article 17 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

**4. If any payments are made by the customer under the insurance contract after its conclusion, the insurance undertaking or intermediary shall also make the disclosures in accordance with this Article for each such payment.** *deleted*

Or. en

**Amendment 33**  
**Proposal for a directive**  
**Article 17 – paragraph 5**

*Text proposed by the Commission*

*Amendment*

**5. The Commission shall be empowered to adopt delegated acts in accordance with Article 33. Those delegated acts shall specify:** *deleted*

**(a) appropriate criteria for determining how the remuneration of the intermediary - including contingent commission – shall be disclosed to the customer as referred to in paragraph 1 (f) and (g) and paragraph 2 of this Article;**

**(b) appropriate criteria for determining in particular the basis of calculation of all the fee or commission or the combination of both;**

**(c) the steps that insurance intermediaries and insurance undertakings might reasonably be expected to take to disclose their remuneration to the customer.**

Or. en

**Amendment 34  
Proposal for a directive  
Article 23 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

**3. The Commission shall be empowered to adopt delegated acts in accordance with Article 33 to specify :** *deleted*

**(a) the steps and effective organisational and administrative arrangements that insurance intermediaries and insurance undertakings might reasonably be expected to take to identify, prevent, manage and disclose conflicts of interest when providing insurance mediation;**

**(b) appropriate criteria for determining the types of conflict of interest whose existence may damage the interests of the customers or potential customers of the**

*insurance intermediary or insurance undertaking.*

Or. en

**Amendment 35**  
**Proposal for a directive**  
**Article 24 – paragraph 3 – point a**

*Text proposed by the Commission*

(a) the insurance intermediary or insurance undertaking and its services. When advice is provided, information shall specify whether the advice is provided on an independent basis and whether it is based on a broad or on a more restricted analysis of the market and shall indicate whether the insurance intermediary or insurance undertaking will provide the customer with the *on-going* assessment of the suitability of the insurance product recommended to the customer;

*Amendment*

(a) the insurance intermediary or insurance undertaking and its services. When advice is provided, information shall specify whether the advice is provided on an independent basis and whether it is based on a broad or on a more restricted analysis of the market and shall indicate whether the insurance intermediary or insurance undertaking will provide the customer with the *periodical* assessment of the suitability of the insurance product recommended to the customer;

Or. en

**Amendment 36**  
**Proposal for a directive**  
**Article 24 – paragraph 5**

*Text proposed by the Commission*

***5. When the insurance intermediary or insurance undertaking informs the customer that insurance advice is provided on an independent basis, the insurance intermediary or insurance undertaking shall:***

***(a) assess a sufficiently large number of insurance products available on the market. The insurance products should be diversified with regard to their type and issuers or product providers and should not be limited to insurance products***

*Amendment*

*deleted*

*issued or provided by entities having close links with the insurance intermediary or insurance undertaking; and*

*(b) not accept or receive fees, commissions or any monetary benefits paid or provided by any third party or a person acting on behalf of a third party in relation to the provision of the service to customers.*

Or. en

*Justification*

*The directive should not discriminate specific remuneration systems which have established themselves in the market and which ensure insurance coverage for citizens.*

**Amendment 37**  
**Proposal for a directive**  
**Article 24 – paragraph 6**

*Text proposed by the Commission*

*Amendment*

**6. The Commission shall be empowered to adopt delegated acts in accordance with Article 33 concerning measures to ensure that insurance intermediaries and insurance undertakings comply with the principles set out in this Article when carrying on insurance mediation with their customers. Those delegated acts shall specify:**

**(a) the nature of the service(s) offered or provided to the customer or potential customer, taking into account the type, object, size and frequency of the transactions; and**

**(b) the nature of the products being offered or considered including different types of insurance products.**

Or. en

**Amendment 38**  
**Proposal for a directive**  
**Article 25 – paragraph 5**

*Text proposed by the Commission*

*Amendment*

**5. The Commission shall be empowered to adopt delegated acts in accordance with Article 33 to ensure that insurance intermediaries and insurance undertakings comply with the principles set out in this Article when carrying on insurance mediation with their customers. Those delegated acts shall specify :**

**(a) the nature of the service(s) offered or provided to the customer or potential customer, taking into account the type, object, size and frequency of the transactions;**

**(b) the nature of the products being offered or considered including different types of insurance products.**

Or. en

**Amendment 39**  
**Proposal for a directive**  
**Article 27**

*Text proposed by the Commission*

*Amendment*

**Article 27**

**deleted**

**Publication of sanctions**

**Member States shall provide that the competent authority publishes any sanction or measure that has been imposed for breaches of the provisions of the national provisions adopted in the implementation of this Directive without undue delay including information on the type and nature of the breach and the identity of persons responsible for it, unless such disclosure would seriously jeopardise insurance and reinsurance**

**markets. Where the publication would cause a disproportionate damage to the parties involved, the competent authorities shall publish the sanctions on an anonymous basis.**

Or. en

*Justification*

*The publication of the identity of the persons responsible for a breach of the provisions adopted in accordance with the directive is excessive. The ex ante assessment of whether such publication will cause a disproportionate damage to the parties involved will be difficult.*

**Amendment 40  
Proposal for a directive  
Article 28**

*Text proposed by the Commission*

*Amendment*

**Article 28**

**deleted**

**Breaches**

**1. This article shall apply to the following:**

- (a) an insurance or reinsurance intermediary who is not registered in a Member State and who does not fall within Article 1(2) or Article 4;**
- (b) a person providing ancillary insurance activities without having submitted a declaration as laid down in Article 4, or who has submitted such a declaration but in respect of whom the requirements set out in Article 4 are not met;**
- (c) an insurance or reinsurance undertaking or insurance or reinsurance intermediary using the insurance or reinsurance mediation services of persons who are neither registered in a Member State nor referred to in Article 1(2), and who have not submitted a declaration under Article 4;**
- (d) an insurance or reinsurance intermediary having obtained a registration through false statements or**

*any other irregular means in breach of Article 3;*

*(e) an insurance or reinsurance intermediary or insurance undertaking failing to meet the provisions of Article 8;*

*(f) an insurance undertaking or insurance or reinsurance intermediary failing to comply with conduct of business requirements in accordance with Chapter VI and VII.*

*2. Member States shall ensure that in the cases referred to in paragraph 1, the administrative sanctions and measures that can be applied include at least the following:*

*(a) a public statement, which indicates the natural or legal person and the nature of the breach;*

*(b) an order requiring the natural or legal person to cease the conduct and to desist from a repetition of that conduct;*

*(c) in case of an insurance or reinsurance intermediary, withdrawal of registration in accordance with Article 3;*

*(d) a ban against any member of the management body of the insurance or reinsurance intermediary or insurance or reinsurance undertaking or any other natural person, who is held responsible, to exercise functions in insurance intermediaries or reinsurance intermediaries, or insurance or reinsurance undertakings;*

*(e) in case of a legal person, administrative pecuniary sanctions of up to 10 % of the total annual turnover of the legal person in the preceding business year; where the legal person is a subsidiary of a parent undertaking, the relevant total annual turnover shall be the total annual turnover resulting from the consolidated accounts of the ultimate parent undertaking in the preceding business year;*

*(f) in case of a natural person, administrative pecuniary sanctions of up to 5 000 000 EUR, or in the Member States where the Euro is not the official currency, the corresponding value in the national currency on the date of entry into force of this Directive; and*

*Where the benefit derived from the breach can be determined, Member States shall ensure that the maximum level is no lower than twice the amount of that benefit.*

Or. en

*Justification*

*The directive should aim at minimum harmonization. The details of the administrative sanctions should consequently be left to the Member States.*

**Amendment 41**  
**Proposal for a directive**  
**Article 33**

*Text proposed by the Commission*

*Amendment*

*Article 33*

*deleted*

*Delegated acts*

*The Commission shall be empowered to adopt delegated acts in accordance with Article 34 concerning Articles 8, 17, 23, 24 and 25.*

Or. en

**Amendment 42**  
**Proposal for a directive**  
**Article 34**

*Text proposed by the Commission*

*Amendment*

*Article 34*

*deleted*

*Exercise of the delegation*

- 1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.***
- 2. The power to adopt delegated acts referred to in Articles 8, 17, 23, 24 and 25 shall be conferred on the Commission for an indeterminate period of time from the date of entry into force of this Directive.***
- 3. The delegation of powers referred to in Articles 8, 17, 23, 24 and 25 may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.***
- 4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.***
- 5. A delegated act adopted pursuant to Articles 8, 17, 23, 24 and 25 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 2 months at the initiative of the European Parliament or the Council.***

Or. en