	Comments Template on Consultation Paper on Technical Advice on possible delegated acts concerning the Insurance Distribution Directive	Deadline 3 October 2016 18:00 CET
Name of Company:		
Disclosure of comments:	EIOPA will make all comments available on its website, except where respondents specifically request that their comments remain confidential. Please indicate if your comments on this CP should be treated as confidential, by deleting the word Public in the column to the right and by inserting the word Confidential.	Confidential/Public
	Please follow the following instructions for filling in the template: ⇨ Do **not** change the numbering in the column "reference"; if you change numbering, your comment cannot be processed by our IT tool ⇨ Leave the last column empty. ⇨ Please fill in your comment in the relevant row. If you have no comment on a paragraph or a cell, keep the row empty. ⇨ Our IT tool does not allow processing of comments which do not refer to the specific numbers below. **Please send the completed template, in Word Format, to CP-16-006@eiopa.europa.eu.** **Our IT tool does not allow processing of any other formats.** The numbering of the questions refers to the Consultation Paper on Technical Advice on possible delegated acts concerning the Insurance Distribution Directive	
Reference	**Comment**	
General Comment	The Institute and Faculty of Actuaries (IFoA) welcomes the opportunity to respond to the European Insurance and Occupational Pensions Authority's (EIOPA) consultation paper on Technical Advice on possible delegated acts concerning the Insurance Distribution Directive. Members of the IFoA's Life and General Insurance Standards and Consultations Sub-committees and Life Board have led the drafting of this response.	

	The IFoA believes that these proposals generally represent a proportionate and sensible approach to elaborating on the requirements of Directive (EU) 2016 / 97 (Insurance Distribution Directive) for investment-based insurance products consistent with the requirements of the second Markets in Financial Instruments Directive (MiFID II). Monitoring distribution channel activities and examining on a regular basis whether the product is distributed to customers belonging to the relevant target market has the potential to add value to both manufacturers and distributors, as well as the potential of being in the consumers' interest. However, this could result in significantly increased costs, arising from new arrangements for sharing information, particularly in the case of independent distributors, which would require investment in an automated solution to be workable. Furthermore, in the specific case of non-life insurance products, the requirements to assess and monitor suitability of the product and sales to the target market may be onerous. These products provide short term (usually annual) cover against specific events and for retail customers are often distributed widely without advice. The potential costs of implementing the oversight and governance proposals could be borne by these customers so such monitoring needs to be considered in a proportionate manner, so that the outcome is in the public interest. We believe that the standard does not reflect the differing circumstances where insurance clients are corporate institutions (e.g. corporate insurance brokers), where the normal retail customer information asymmetry does not exist. A related point is that the proposals do not differentiate between contracts drawn up on an individual or group basis; this would mean that the governance requirements would cease at the level of the 'corporate' client, rather than extending to the individuals in any group arrangement.	
Question 1		

Question 2	We agree with the proposals in general for retail clients. However, governance activities and activities that prevent customer detriment in relation to corporate clients should reflect the reduced likelihood for potential information asymmetries, compared to retail clients and the proposals may not reflect this. A related point is that the proposals do not differentiate between contracts drawn up on an individual or group basis; this would mean that the governance requirements would cease at the level of the 'corporate' client, rather than extending to the individuals in any group arrangement. For commercial customers buying non-life insurance products, there may be a need to consider the sophistication and knowledge of some of these customers and moderate the required governance activities accordingly. Such commercial policyholders can vary from small independent traders who may be expected to act like retail customers through to large multinational corporations. Whilst the technical guidance does not explicitly restrict insurance products from being distributed to those outside of the target market, this is highlighted as an aim in paragraph 52 of the consultation paper and addressed in paragraph 43. In practice there will be products made available to the general public through open market arrangements where the distributor does not provide any advice and has no control over who chooses to buy these e.g. by offering these through price comparison websites. Whilst monitoring may be put in place and product features clearly explained, controlling who buys a product is impractical in such circumstances. The examples given for product testing in paragraph 34 for non-life insurance include assessing whether the coverage of one product overlaps that of another. However without knowing what other products an individual may have purchased, this is not a practical test (or potentially relevant) to apply for some insurance products such as personal motor insurance.	
Question 3	Governance requirements should include the role of the marketing function to convey product features and disseminate information on the product externally, and how this interacts with the other governance functions and responsibilities of the distributor and	

	manufacturer.	
Question 4	Monitoring distribution channel activities, and examining on a regular basis whether the product is distributed to customers belonging to the relevant target market, has the potential not only to add value to both manufacturers/ distributors, but also to be in the consumers' interest. However, the testing of suitability may prove challenging: it requires sufficient data on the consumer (which needs to be captured and transmitted to the manufacturer), actuarial analysis and remediation when it has gone wrong. Monitoring distribution channel activities/ distribution to the relevant target market presents wider challenges, with potentially significant costs. In the UK many insurance contracts are distributed by intermediaries who are independent of the manufacturer (including price comparison websites). Therefore new arrangements for sharing information on whether the product is reaching the target market will be necessary. This may require an automated solution and, on an industry–wide level in the UK, the total set up and operating costs could be quite significant to the industry. In addition, many distributors (and in particular for non-life insurance products) will make products generally available without advising on the sale. In such cases the distributors may have very little information about the purchasers on which to assess whether they meet the target market criteria.	
Question 5	The definition is too narrow and would result in intermediaries being considered manufacturers in too many cases, e.g. by requesting that a product is designed to cover a key target market and then lending support to the development process. This would increase governance costs and could potentially have unintended consequences, such as a reduction in current collaboration efforts undertaken between insurers and distributors. Instead of attempting to define instances where the distributor is classified as a manufacturer, it may be better to define the roles in the product contract / agreement between the insurer and distributor, i.e. let the parties decide on the roles in the	

	contract rather than in terms of what might happen in the product development process. It may be the case that the distributor is just being helpful in providing information rather than involved as a full blown manufacturer.	
Question 6	The collaboration agreement should include a performance contract that defines successful completion of activities associated with the manufacturing process.	
Question 7	Yes.	
Question 8	As mentioned in the response to Question 4 above, monitoring distribution channel activities, and examining appropriateness for the relevant target market, presents a significant challenge with potentially significant costs. This is because it would require new arrangements for sharing information, particularly in the case of independent distributors, which would require an investment in an automated solution to be workable. A minimum review frequency would be counterproductive as the appropriate frequency is highly dependent on product features and other market specific circumstances. For many non-life insurance products which typically provide a single year of protection against specific events, and are distributed without advice, the requirements outlined seem particularly onerous. An explicit statement in this context of applying the requirements in a proportional manner would be helpful to ensure that the costs of implementation, which will ultimately be passed on to consumers, are commensurate and balanced with the protection that these measures ultimately afford such consumers.	
Question 9	No.	
Question 10	Yes.	
Question 11	Yes.	
Question 12	No.	
Question 13	Tied distributors or distributors owned by the insurance manufacturer would automatically constitute high risk inducements.	

Question 14	No.	
Question 15	Yes.	
Question 16	Yes.	
Question 17	Information criteria for both of these assessments should be largely overlapping.	
Question 18	Yes.	
Question 19	Complexity should be judged in respect of the customer outcome rather than the underlying investment / product characteristics. Labelling products as complex could be a hindrance to non-advised / internet sales. It is not appropriate to assume that a product should automatically be classified as complex where it includes derivative instruments. Such instruments could be used for efficient portfolio management (as per article 132 of the Solvency II framework directive) and not materially affect customer outcomes apart from this. A distinction needs to be drawn between the uses of derivatives to structure a specific intended customer outcome or to carry out portfolio management activities.	
Question 20	No.	
Question 21	No.	
Question 22	Yes.	
Question 23	Yes.	
Question 24	Yes.	
Question 25	For insurance cover it would be useful to include product exclusions, excesses, limitations and specific conditions.	
Question 26	No.	