

Implementing the Insurance Distribution Directive (IDD): Consultation

October 2017

Implementing the Insurance Distribution Directive

Contents

About this consultation	3
How to respond	4
Background to consultation	5
Why is the Insurance Distribution Directive relevant to us?	6
Changes to our rules	7
Our approach.....	9
What firms need to do.....	10
EDI considerations.....	11
Our questions in full	11
Our next steps	12

About this consultation

We are consulting on changes to our regulatory arrangements which are needed so that we comply with the [Insurance Distribution Directive](#). The directive needs to be implemented by 23 February 2018 by which date our revised rules will also need to be in place.

This consultation will interest SRA authorised firms that carry on insurance distribution activities (currently referred to as insurance mediation activities) and consumer groups.

You can find proposed changes to the regulatory arrangements, namely the SRA Financial Services (Scope) Rules 2001 and the SRA Financial Services (Conduct of Business) Rules 2001 in Annex 1.

We are seeking views on the changes we propose and whether there are any further areas where guidance might be needed.

This consultation is running from 24 October until 20 November 2017.

After this consultation closes, our next steps will be to collate and analyse all the responses. We will then take the necessary steps to make changes to our regulatory arrangements so that we can implement the new rules on or before 23 February 2018.

Key terms used in this paper

IDD - Insurance distribution directive

IMD - Insurance mediation directive

EPF - Exempt Professional Firms

DPB - Designated Professional Body

Questions about this publication

If you have any questions about this consultation, please contact idd@sra.org.uk.

How to respond

This consultation is open from 24 October until 20 November 2017.

Online questionnaire

Our online consultation questionnaire is a convenient, flexible way to respond. You can save a partial response online and complete it later. You can download a copy of your response before you submit it.

[Start your response now](http://form.sra.org.uk/s3/insurance-distribution-directive) (<http://form.sra.org.uk/s3/insurance-distribution-directive>)

Reasonable adjustment requests and questions

[Read our reasonable adjustments policy](#)

[Contact us](mailto:idd@sra.org.uk) (idd@sra.org.uk) if you need to respond to this consultation using a different format or if you have any questions about the consultation.

Publishing responses

We will publish and attribute your response unless you request otherwise.

Background to consultation

1. The Insurance Mediation Directive (IMD) was transposed in the UK on 15 January 2005. It specified conditions for the initial authorisation and ongoing regulatory requirements for insurance and reinsurance intermediaries.¹
2. The Insurance Distribution Directive (IDD) is a new European Directive that now replaces the IMD and is designed to ensure a level playing field across all those providing, facilitating and arranging insurance products and seeks to strengthen consumer protection. It aims to deliver many requirements of a professional and organisational nature as well as dealing with requirements for complaints handling and out-of-court redress.
3. The IDD applies to firms that carry on insurance distribution activities – these are firms who sell, advise on, or conclude insurance contracts. SRA authorised firms involved in personal injury, conveyancing and probate will most likely be carrying on insurance distribution activities. The insurance products that they arrange will include after the event costs insurance in a personal injury matter or insurance for defective title in a conveyance. There may be other insurance products that firms advise on or arrange for their clients.
4. The deadline for implementing the IDD in the UK is 23 February 2018, which means new legislation, regulations and rules will be introduced by HM Treasury and the Financial Conduct Authority (FCA) on or before that date. The FCA have published their [policy statement](#) and near final rules. They expect their final rules to be published in early 2018.

¹ A firm carrying on insurance mediation activity other than an insurer

5. Some of the key requirements under the IDD are:

- a minimum requirement of 15 hours per year of continuing professional development for staff involved directly in insurance distribution activities
- a prescribed minimum level of professional indemnity insurance cover
- a requirement that insurance distributors have a process in place for customers and other eligible parties to register complaints and receive replies
- some general principles from the IMD which have been enhanced and reconfirmed, including the need for all insurance distributors to act fairly and 'in the customer's best interests', communicate in a manner that is clear, fair and not misleading, and make sure that remuneration does not conflict with the duty to act in the customer's best interests
- an obligation to disclose more information to customers prior to the conclusion of an insurance contract through an Insurance Product Information Document.

Why is the Insurance Distribution Directive relevant to us?

6. We are a designated professional body (DPB) under Part 20 of the Financial Services and Markets Act 2000 (FSMA). SRA-authorized firms can, therefore, carry on financial services activities which includes insurance distribution activities (for example, after the event insurance in a personal injury matter or insurance for defective title in a conveyance) under the scope of our regulation if they comply with our rules and, in particular, the activity "*...arises out of, or is complementary to, the provision of a particular professional service to a particular client...*" (s332(4) of FSMA). Firms carrying on this work are referred to as exempt professional firms (EPFs).

7. As a DPB, we have in place rules that govern the carrying on of financial services activities by EPFs; these are the SRA Financial Services (Scope) Rules 2001 (Scope rules) and the SRA Financial Services (Conduct of Business) Rules 2001 (COB rules).² The current version of the COB rules includes requirements that were introduced to implement the IMD which has been repealed by the IDD.
8. We will need to change our rules so that we effectively implement the minimum requirements set out in the IDD. The FCA and the Legal Services Board (LSB) will be responsible for approving our rules.

Changes to our rules

9. The changes we have made that are set out in the draft rules include:

Registration requirements

- The FCA already maintains a [register](#) of firms carrying on insurance mediation activities. Firms (including new firms) that propose to begin to carry on insurance distribution activities will need to notify us in a prescribed form and we will provide the FCA with information for the register. We may also provide the FCA with other information collected in this way.
- Firms that already carry on insurance mediation activities and that appear on the register will not be expected to notify us again.

Professional and organisational requirements

- All staff involved in insurance and reinsurance distribution must possess appropriate knowledge and ability to perform their duties.

Conduct of business requirements

² These rules should be considered by firms in parallel with the obligations set out in the SRA Principles and the SRA Code of Conduct.

Implementing the Insurance Distribution Directive

The requirements build on the existing rules. In summary:

- All firms must act honestly, fairly and professionally in the client's best interests and retain documentary evidence to illustrate that the firm is meeting this requirement.
- Firms must make appropriate pre-contract disclosures about themselves and the scope of their services.

Information requirements

Firms will need to consider how to make sure information is meaningful to clients.

Information should be provided in a durable medium in a way that is fair, clear and not misleading. Within this there are further requirements, including:

- Conflicts of interest and transparency - Firms must disclose if they have 10% or more voting rights or capital in an insurer, or vice versa. They must also disclose whether they give advice based on fair and personal analysis of the market. If a firm is contractually bound to place business with a specific insurer or insurers, it must provide the name of these insurers.
- Remuneration - Firms must disclose the 'nature' and 'basis' they receive, in relation to the contracts proposed. Firms will still need to continue to account to the client for any commission received.
- Fee disclosure – Firms will need to provide the exact figure of the fee or the method of calculation if the amount cannot be provided. This also applies to post-contract fees that the client may incur during the life of the policy.

Demands and needs of your client

The IDD builds on existing conduct requirements, requiring firms to actively seek to understand the client's demands and needs by asking appropriate questions.

Implementing the Insurance Distribution Directive

The IDD also includes additional provisions that any contract proposed shall be consistent with the client's insurance demands and needs. To comply with this additional requirement firms should:

- Identify the client's demands and needs matching them to available products
- State the client's demands and needs to assist them in making an informed decision
- Make sure that the client is given objective and relevant information about a policy in good time prior to the conclusion of the policy, so that the client can make an informed decision about the arrangements proposed.

10. The proposed changes to the Scope and COB rules and the SRA Handbook Glossary 2012 are set out in **Annex 1**.

Question: Do you have any comments on our proposed rules?

Our approach

11. Our approach to regulation is to set out clear principles and standards and only to put in place specific requirements where there is no other route to achieving the desired outcome.

12. The IDD makes a distinction between the types of businesses that carry on insurance distribution activities and prescribes different requirements in relation to each. These are insurance intermediaries, reinsurance intermediaries and a new category of insurance intermediaries; ancillary insurance intermediaries.³

³ Ancillary insurance intermediaries are firms whose principal professional activity is not insurance distribution and only distributes insurance products which are complementary to a good or service they provide.

13. Our view is that EPFs can be classed as ancillary insurance intermediaries and this, therefore, provides us with some discretion over how certain parts of the IDD are implemented. There are clearly similarities between how ancillary insurance intermediaries carry on insurance distribution activities and how EPFs carry on financial services activities under Part 20 of FSMA as both require the insurance services to be 'complementary' to other services provided by the firm.
14. We have been working with the FCA to consider the changes we need to make. We want to make sure that firms comply with the IDD when carrying on this work without imposing a significant additional regulatory burden. The FCA has indicated that it is comfortable with an approach where we rely on existing rules and guidance that will achieve the same outcomes rather than copying out the requirements of the IDD in every case.
15. We have therefore, endeavoured to make sure that changes to our rules are made only where necessary and wherever possible we avoid unnecessary duplication of any existing SRA requirements.

What firms need to do

16. Firms should assess what if any changes they will need to make to their processes to comply the proposed rules by the 23th February 2018.
17. Firms should be reviewing their approach to their communications with the aim of ensuring clients pay attention to them to inform their decision-making process.
18. Firms need to consider how they can make information meaningful to clients and make sure that information is provided at an appropriate time and through the right channels.
19. As the IDD imposes professional and organisational requirements, firms will need to think about any learning and development to remain competent and think about the impact of the IDD on how they conduct business.

20. SRA-authorized firms that are not EPFs (because they provide mainstream financial services and are directly authorized by the FCA to undertake those activities) will need to familiarise themselves with the changes that the FCA make.

Question: Do you need further guidance on insurance distribution activities and if so on what aspects in particular?

EDI considerations

21. As we have worked through our proposed rule changes we have considered whether there are any likely equality, diversity and inclusion issues. We do not consider that our proposed changes will adversely impact any groups (firms or consumers) with protected characteristics. However, we will continue to monitor this during the consultation period.

Our questions in full

22. We are keen to hear your views on our changes to our regulatory arrangements. An uninterrupted list of our questions is below.

- Do you have any comments on our proposed rule changes?
- Do you need further guidance on insurance distribution activities and if so on what aspects in particular?

Our next steps

Consultation dates

This consultation is running from 24 October until 20 November 2017.

Our decision

Once the consultation period ends, we will read and analyse responses. We will then take the necessary steps for rules to be made and submitted to the FCA and the Legal Services Board for approval.

Publishing responses

Please note that, unless otherwise stated, we will publish responses to our consultations.

Get involved

Your views matter, which is why we are keen to engage with you outside of formal consultations.

Attend one of our events

To attend one of our events, or to see us at an event we are participating in, keep an eye on all our upcoming events by visiting our [website](#).

Invite us to speak at your event

If you would like to invite an SRA speaker to your event, please fill in our speaker request form, which you can download [here](#).

Follow us on social media



Join a virtual reference group

Our virtual reference groups allow you to stay in touch and learn more about what we are working on.

Diversity matters

Members of our Diversity matters reference group are helping us to think about how we can progress our work on equality, diversity and inclusion.

forms.sra.org.uk/s3/diversitymatters

Small firms

We want to make sure that thinking about how our work affects sole practitioners and other small firms is embedded in our operations and our regulatory reform programme.

<http://www.surveygizmo.com/s3/1905202/Virtual-reference-group>