

ID number: 5610333409-62

Brussels, 21 February 2011

Mandatory disclosure of remuneration and commission

RIAD's view on the review of the Insurance Mediation Directive

The European Commission asks stakeholders how the current provisions on insurance mediation (Directive 2002/92/EC) could be revised to fill in significant gaps and inconsistencies between national regulations, improve consumer benefits and increase transparency.

RIAD's key message:

Distribution channels for legal protection insurance vary considerably throughout the EU and depend mainly on national traditions and legal environments. However, the nature as a niche product with a low-price level is common to legal protection insurance throughout the EU. Moreover, unlike investments packaged as life insurance policies, legal protection insurance is not about yield and therefore the question which part of the premium is actually invested is not central for the protection of customers.

Consequently, there cannot be one-size-fits-all set of rules for the disclosure of remuneration because disproportionate and unreasonably rigid requirements for the disclosure of information on remuneration could indeed affect the legal protection insurance branch very badly. Therefore, a revised rule book must find the right balance between costumers' justified needs for transparency and a flexible and proportionate approach reflecting the different risks exposures of insurance products.

What effect could mandatory disclosure have on legal protection insurance?

The impact of compulsory disclosure of remuneration of intermediaries on legal protection insurance is quite complex and could actually have a detrimental effect. This is primarily due to the fact that this personal line business is sold very differently, i.e. as stand-alone product or as an add-on, thus involvement of intermediaries in selling the product differs substantially.

In countries where legal protection insurance is sold as add-on it is purchased together with another insurance product (for instance motor insurance) and customers are usually entirely price driven when they purchase the product. In these cases commission for the add-on product can seem high for the customer in relation to the price of the legal protection insurance while, taken as a package, the total commission does not look unreasonable.

The situation is different if legal protection insurance is purchased as stand-alone: while the insurance is still relatively low-priced, advice is however much more important and the commission or remuneration reflects the quality and intensity of the advice. Again, mandatory disclosure would make commission or remuneration appear rather elevated and pricing pressure on remuneration would substantially reduce the willingness of intermediaries to provide sufficient advice and information; a detrimental outcome for customers.

What is necessary for managing effectively conflicts of interests and increase transparency for legal protection insurance?

In order to answer this question it is important to take into account that legal protection insurance is not about which part of the premium is invested and which product generates the best possible return on investment. Legal protection insurance rather safeguards certain goods and shields certain risks, i.e. it secures access to law by shielding financial risks connected to legal proceedings and providing other services directly linked to the insurance cover.

Due to the specifics of legal protection insurance it is crucial for the insured to be well informed about the policy cover, whose policies and which products the intermediary sells while obliging the intermediary to disclose details about his level of remuneration or commission would not have a particular added value for the insured. To be noted, this does not exclude the possibility obliging intermediaries to disclose commission or remuneration when clients request them to provide this information.

To conclude, legal protection insurers agree that it is necessary to manage conflicts of interests effectively. However, simply using the MiFID Level 1 regime and introducing a general obligation for intermediaries to disclose information on remuneration will not achieve this goal because insurance products differ substantially, thus require different solutions and it would affect some insurance products negatively.

Therefore, a revised Directive must introduce a flexible regime which takes into account the differences of distribution channels between Member States and provides for insurers and intermediaries adequate and proportionate mechanisms to satisfy their customers' demand for transparency. In order to avoid adverse effects on some markets it is important to recognise the importance of flexibility, maybe even at the costs of absolute consistency between national markets.

RIAD represents legal protection insurance companies from 17 European countries, Australia, Canada, South Africa and South America. RIAD members are specialised in insurance and/or services linked to legal protection insurance. Most of RIAD's members are SMEs offering a very specific product: they offer to their clients, through an insurance policy, the resources that are necessary for access to high-quality and easily accessible legal advice and services. They also protect their clients effectively against financial risks associated with engaging legal experts and gaining access to the law.