

IDD: EIOPA Technical Advice on possible delegated acts

Product oversight and governance arrangement (POG)

15 March 2017

Highlights

- POG requirements play a key role in customer protection.
- Similar to MiFID II requirements.
- Applies to all insurance products (not only applies to IBIPs).

In detail

Recital 55 IDD:

“In order to ensure that insurance products meet the needs of the target market, insurance undertakings and, in the Member States where insurance intermediaries manufacture insurance products for sale to customers, insurance intermediaries should maintain, operate and review a process for the approval of each insurance product. Where an insurance distributor advises on, or proposes, insurance products which it does not manufacture, it should in any case be able to understand the characteristics and identified target market of those products. This Directive should not limit the variety and flexibility of the approaches which undertakings use to develop new products”

Article 25 IDD:

“Insurance undertakings, as well as intermediaries which manufacture any insurance product for sale to customers, shall maintain, operate and review a process for the approval of each insurance product, or significant adaptations of an existing insurance product, before it is marketed or distributed to customers. The product approval process shall be proportionate and appropriate to the nature of the insurance product. The product approval process shall specify an identified target market for each product, ensure that all relevant risks to such identified target market are assessed and that the intended distribution strategy is consistent with the identified target market, and take reasonable steps to ensure that the insurance product is distributed to the identified target market.

The insurance undertaking shall understand and regularly review the insurance products it offers or markets, taking into account any event that could materially affect the potential risk to the identified target market, to assess at least whether the product remains consistent with the needs of the identified target market and whether the intended distribution strategy remains appropriate. Insurance undertakings, as well as intermediaries which manufacture insurance products, shall make available to distributors all appropriate information on the insurance product and the product approval process, including the identified target market of the insurance product. Where an insurance distributor advises on, or proposes, insurance products which it does not manufacture, it shall have in place adequate arrangements to obtain the information referred to in the fifth subparagraph and to understand the characteristics and identified target market of each insurance product.

The policies, processes and arrangements referred to in this Article shall be without prejudice to all other requirements under this Directive including those relating to disclosure, suitability or appropriateness, identification and management of conflicts of interest, and inducements.

This Article shall not apply to insurance products which consist of the insurance of large risks.”

1. Scope of application

Who?	<ul style="list-style-type: none"> ▪ Manufacturer: insurance undertaking or insurance intermediary which design any insurance product for sale to customers. ▪ Distributor: insurance undertaking or insurance intermediary, including any natural or legal person pursuing the activity of insurance distribution, which distribute insurance products that it does not manufacture. <p><i>As far as insurance undertakings are manufacturers and at the same time distributors of their own insurance products, they have to fulfill with the requirements for manufacturers.</i></p>
What?	<ul style="list-style-type: none"> ▪ Any insurance product.

2. Objectives of POG

Product Oversight and Governance (POG) arrangements aim to ensure that the interests of the customers are taken into consideration throughout the life cycle of an insurance product.

This includes the process of **designing and manufacturing** the product, **bringing it to market** and **monitoring the product** once it has been distributed.

The manufacturer should establish, implement and review POG arrangements that set out appropriate **measures and procedures aimed at designing, monitoring, reviewing and distributing products** for clients willing to prevent or mitigate customer detriment, support proper management of conflicts of interest and make sure that customers' demands and needs are duly taken into account.

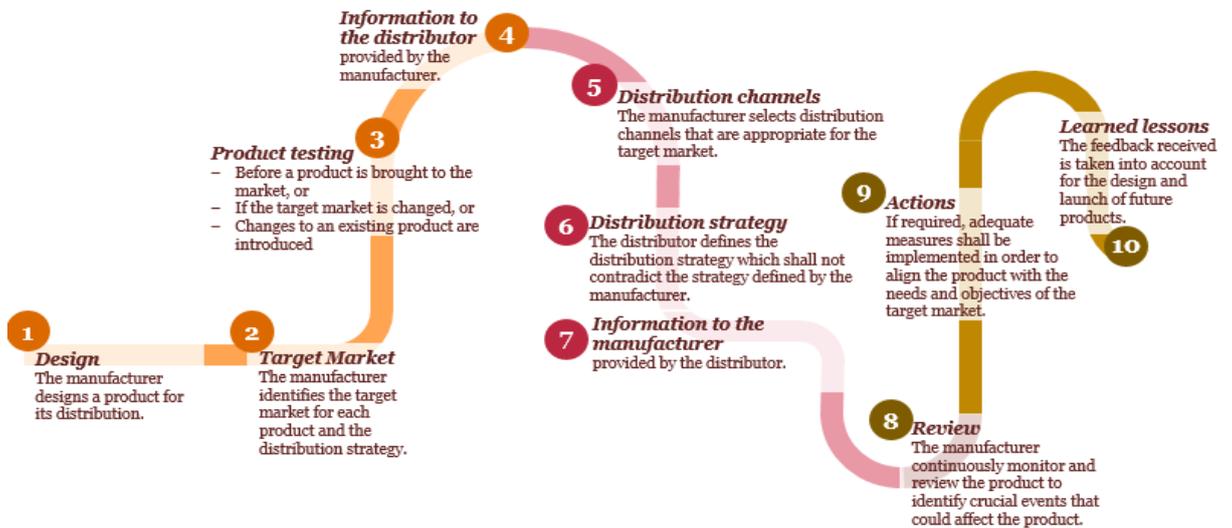
EIOPA states that POG **arrangements are closely linked to the requirements regarding the system of governance as laid down in Solvency II**, which requires insurance undertakings to have a sound and prudent management of the business under a risk-based approach, including an appropriate risk management system.



Finally, POG arrangements need to be **proportionate** to the level of complexity and the risks related to the products, as well as the nature, scale and complexity of the relevant business of the entity.

3. POG: Key aspects

3.1 POG in one shot



- 1 Design:** manufacturers have to maintain, operate and review POG arrangements. Co-manufacturing partnerships should be established in a written agreement.
- 2 Target Market:** as the identification of the target market describes a group of customers sharing common characteristics at an abstract and generalised level, it has to be distinguished from the individual assessment whether an insurance product is consistent with the demands and needs of the client, or is suitable and appropriate for the individual customer at the point of sale. The manufacturer shall only design and bring to the market products with features that are aligned with the target market.
- 3 Product testing:** the manufacturer has to carry out product testing in a qualitative and, where appropriate, in a quantifiable manner and not bring a product to the market if the results of the product testing show that the product is not aligned with the target market.
- 4 Information to the distributor:** the manufacturer shall provide the insurance distributors with all relevant information on the insurance product, the product approval process, as well as the target market and distribution strategy. The information enables them to understand and place the product properly on the target market.
- 5 Distributor channels:** the manufacturer must select distributors with appropriate care and make sure the distribution channels act in compliance with the objectives of the manufacturer's POG arrangements.
- 6 Distribution strategy:** where an insurance distributor sets up or follows a distribution strategy, it can't contradict the distribution strategy and the target market identified by the manufacturer.
- 7 Information to the manufacturer:** if the insurance distributors become aware of any problems causing risk of customer detriment regarding the target market for a specific product, they must promptly inform the manufacturer.
- 8 Review:** the insurance distributor and manufacturer must regularly review the POG arrangements to ensure that they are still valid and up to date.
- 9 Actions:** should the manufacturer identify, during the lifetime of a product, circumstances related to the product that give rise to the risk of customer detriment, the manufacturer shall take appropriate action to mitigate the situation.
- 10 Learned lessons:** all relevant information obtained during the lifetime of a product have to be taken into account when manufacturing new products.

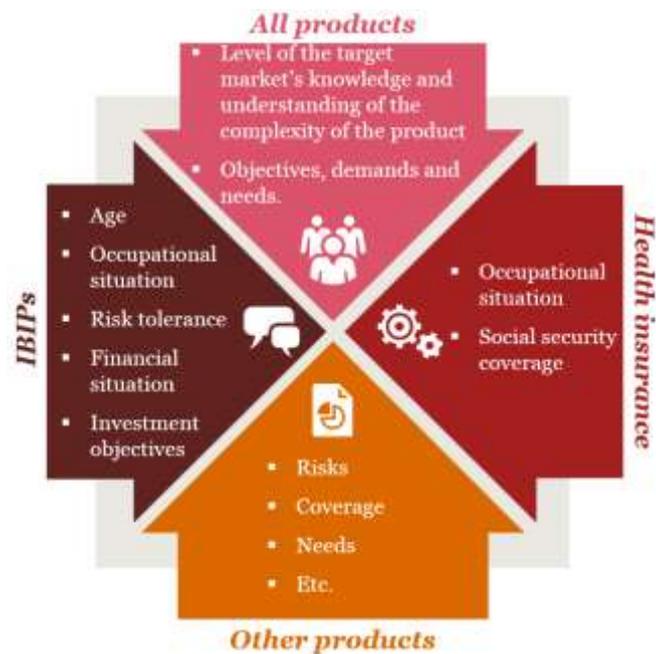
3.2 Other relevant points to bear in mind

- The manufacturer has **full responsibility** for compliance with POG arrangements when it designates a third party to design products on their behalf.
- Relevant actions taken by the manufacturer/ distributor shall be **duly documented, kept for audit purposes and made available** to the competent authorities upon request.
- **Relevant personnel** involved in designing products must have the necessary skills, knowledge and expertise in order to properly understand the product's main features and characteristics, as well as the interests, objectives and characteristics of the target market.

3.3 Target market

The manufacturer (insurance undertaking or insurance intermediary) **identifies the target market for each insurance product and specifies the group of customers with whom the insurance product is compatible.**

- To assess if an insurance product is compatible with a group of customers, the manufacturer **shall only design and bring to the market products with features that are aligned with the demands and needs of the target market**, and, where relevant, with the complexity and nature of the financial situation, including the ability to bear losses, and investment objectives of a typical customer of the target market.
- The EIOPA Technical Advice does not list the criteria to be followed in order to identify the target market. However, it provides **examples of the criteria** which could be considered to determine the target market (as detailed on the figure of the right) depending on the type of product.



- Where relevant from a customer protection perspective, **the manufacturer shall also identify groups of customers with whom the product is generally not compatible.**

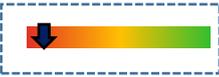
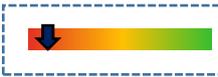
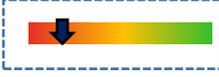
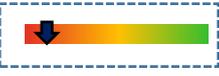
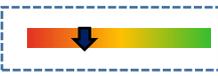
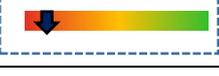
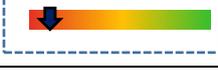
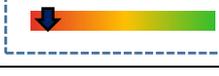
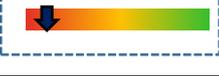
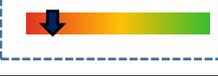
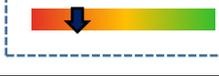
4. Gap analysis with MiFID II and IMD

Measures	Gap analysis with MiFID II*	Gap analysis with IMD**
Target Market	MiFID II requires distributors to identify a target market for each of its products. Under the EIOPA Technical Advice, this obligation seems to concern only the manufacturer.	IMD does not have any provision about POG requirements.
Criteria for identifying the target market	ESMA Guidance on POG sets out six cumulative categories for manufactures in order to identify the target market for their products. EIOPA Technical Advice only provides a list of examples that manufacturers shall take into account in order to define the target market.	
POG arrangements adoption	Under ESMA Guidance on POG, products manufactured and distributed before the MIFID II application should not fall within the scope of POG requirements. In addition, products which have been manufactured before this date but are distributed to investors after the MiFID II application should fall within the scope. There is no provision on this regard under the EIOPA Technical Advice.	

* Directive 2014/65/EU on markets in financial instruments.

**Directive 2002/92/EC of 9 December on insurance mediation.

5. Main impacts of the requirements included within the Technical Advice on this topic.

Requirement	Impacts on the organisation (procedures, policies, contracts)	Impacts on IT	Impacts on business
<i>POG arrangements</i>			
<i>Target market identification</i>			
<i>Product testing</i>			
<i>Information flow between manufacturer – distributor (and vice versa)</i>			

Subscribe to our Flash News on
www.pwc.lu/subscribe

Let's talk

Claude Jacoby	Partner	+352 49 48 48 2114	claude.jacoby@lu.pwc.com
Anthony Dault	Director	+352 49 48 48 2380	a.dault@lu.pwc.com
Yves Leleux	Director	+352 49 48 48 2024	yves.leleux@lu.pwc.com
Antonella Argalia	Senior Manager	+352 49 48 48 3682	antonella.argalia@lu.pwc.com

PwC Luxembourg (www.pwc.lu) is the largest professional services firm in Luxembourg with 2,700 people employed from 58 different countries. PwC Luxembourg provides audit, tax and advisory services including management consulting, transaction, financing and regulatory advice. The firm provides advice to a wide variety of clients from local and middle market entrepreneurs to large multinational companies operating from Luxembourg and the Greater Region. The firm helps its clients create the value they are looking for by contributing to the smooth operation of the capital markets and providing advice through an industry-focused approach.

The PwC global network is the largest provider of professional services in the audit, tax and management consultancy sectors. We're a network of independent firms based in 157 countries and employing over 223,000 people. Talk to us about your concerns and find out more by visiting us at www.pwc.com and www.pwc.lu.

© 2017 PricewaterhouseCoopers, Société coopérative. All rights reserved. In this document, "PwC" or "PwC Luxembourg" refers to PricewaterhouseCoopers, Société coopérative which is a member firm of PricewaterhouseCoopers International Limited, each member firm of which is a separate legal entity. PwC IL cannot be held liable in any way for the acts or omissions of its member firms.