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III-1	Article 2	Article 2
III-2	Amendments to Directive (EU) 2016/97	Amendments to Directive (EU) 2016/97
III-3	Directive (EU) 2016/97 is amended as follows:	Directive (EU) 2016/97 is amended as follows:
III-4	(1) Article 2(1) is amended as follows:	(1) Article 2(1) is amended as follows:
III-5	(a) in point (4), point (c) is replaced by the following:	(a) in point (4), point (c) is replaced by the following:
III-6	‘(c) the insurance products concerned do not cover life insurance or liability risks, except for cover of liability risks complementing a good or service which the intermediary provides as its principal professional activity;	‘(c) the insurance products concerned do not cover life insurance or liability risks, except for cover of liability risks complementing a good or service which the intermediary provides as its principal professional activity;’
III-7	(b) point (8) is replaced by the following:	(b) point (8) is replaced by the following:
III-8	‘(8) ‘insurance distributor’ means any insurance intermediary, ancillary insurance intermediary or any insurance undertaking engaging in insurance distribution activities;	‘(8) ‘insurance distributor’ means any insurance intermediary, ancillary insurance intermediary or any insurance undertaking engaging in insurance distribution activities;

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III-8a		<u>(c) in point (17), the following point (f) is added:</u>
III-8b		<u>‘(f) pension products that consist of immediate annuities, as referred to in Article 2(3), subparagraph a, point (ii) of Directive 2009/138/EC, and do not have an accumulation phase;’</u>
III-9	(c) the following points (19) to (22) are added:	<u>(ed)</u> the following points (19) to (2 <u>4</u>) are added:
III-10	‘(19) ‘electronic format’ means any durable medium other than paper;	‘(19) ‘electronic format’ means any durable medium other than paper;
III-11	(20) ‘marketing communication’ means any disclosure of information other than a disclosure required by Union or national law or other than the financial education material referred to in Article 16b, that directly or indirectly promotes insurance products or directly or indirectly entices investments in	(20) ‘marketing communication’ means any disclosure of information other than a disclosure required by Union or national law or other than the financial education material referred to in Article 16b, that directly or indirectly promotes insurance products or directly or indirectly <u>promotes entices</u>

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	insurance-based investment products and that is made:	investments in insurance-based investment products and that is made:
III-12	(a) by an insurance undertaking or insurance intermediary, or by a third party that is remunerated, or incentivised through non-monetary compensation, by such insurance undertaking or insurance intermediary;	(a) by an insurance undertaking or insurance intermediary, or by a third party that is remunerated, or incentivised through non-monetary compensation, by such insurance undertaking or insurance intermediary;
III-13	(b) to natural or legal persons;	(b) to natural or legal persons;
III-14	(c) in any form and by any means;	(c) in any form and by any means;
III-15	(21) ‘marketing practice’ means any strategy, use of a tool or technique applied by an insurance undertaking or insurance intermediary, or by any third party that is remunerated or incentivised through non-monetary compensation by such insurance firm or insurance intermediary to:	(21) ‘marketing practice’ means any strategy, use of a tool or technique, <u>including online targeting of customers,</u> applied by an insurance undertaking or insurance intermediary, or by any third party that is remunerated or incentivised through non-monetary compensation by such insurance <u>firm undertaking</u> or insurance intermediary to:
III-16	(a) directly or indirectly disseminate marketing communications;	(a) directly or indirectly disseminate marketing communications; <u>or</u>

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III-17	(b) accelerate or improve the reach and effectiveness of marketing communications;	(b) accelerate or improve the reach or and effectiveness of marketing communications; <u>or</u>
III-18	(c) promote in any way the insurance undertakings, insurance intermediaries or insurance products;	(c) promote in any way the insurance undertakings, insurance intermediaries or insurance products, <u>including the online choice architecture;</u>
III-19	(22) ‘online interface’ means any software, including a website, part of a website, or an application.’;	(22) ‘online interface’ means any software, including a website; <u>or a part thereof of a website, or an and an</u> application, <u>including mobile applications;</u>
III-19a		<u>(23) ‘inducement’ means any fee, commission, monetary or non-monetary benefit, provided or received by an insurance intermediary or an insurance undertaking in relation to the provision to the customer of an insurance-based investment product, to or from any party except the customer involved in the transaction in question or a person acting on behalf of that customer;</u>

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III-19b		<u>(24) ‘inducement scheme’ means a set of contractual arrangements governing the payment, provision and receipt of inducements, including the conditions under which the inducements are paid or received.’;</u>
III-20	(26) Article 3 is amended as follows:	<u>(26)</u> Article 3 is amended as follows:
III-21	(a) in paragraph 4, in the sixth subparagraph, the second sentence is replaced by the following:	(a) in paragraph 4, in the sixth subparagraph, the second sentence is replaced by the following:
III-22	‘Where applicable, the home Member State shall inform the host Member State of such removal immediately.’;	‘Where applicable, the home Member State shall inform the host Member State of such removal immediately.’;
III-23	(b) in paragraph 5, the following subparagraph is added:	(b) in paragraph 5, the following subparagraph is added:
III-24	‘Where the registration is refused or where an insurance, reinsurance or ancillary insurance intermediary is removed from the register, the competent authority shall communicate its decision to the applicant or the	Where the registration is refused or where an insurance, reinsurance or ancillary insurance intermediary is removed from the register, the competent authority shall communicate its decision to the applicant or the insurance, reinsurance or ancillary

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	insurance, reinsurance or ancillary insurance intermediary concerned in a well-reasoned document and inform EIOPA about the reasons for such refusal of registration or removal from the register.’;	insurance intermediary concerned in a well-reasoned document and inform EIOPA about the reasons for such refusal of registration or removal from the register.
III-25	(c) the following paragraph 5a is inserted:	(c) the following paragraph 5a is inserted:
III-26	‘5a. EIOPA shall establish and make available to competent authorities a list of all insurance, reinsurance or ancillary insurance intermediaries whose registration has been refused or which have been removed from the register by a competent authority.	‘5a. EIOPA shall establish and make available to competent authorities a list of all insurance, reinsurance or ancillary insurance intermediaries whose registration has been refused or which have been removed from the register by a competent authority.
III-27	The list referred to in the first subparagraph shall contain, where applicable, information on the services or activities for which each insurance, reinsurance or ancillary insurance	The list referred to in the first subparagraph shall contain, where applicable, information on the services or activities for which each insurance, reinsurance or ancillary insurance

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	intermediary has sought registration, as well as the reasons for the refusal of registration or the removal from the register and shall be updated on regular basis.’;	intermediary has sought registration, as well as the reasons for the refusal of registration or the removal from the register and shall be updated on regular basis.
III-28	(27) Article 5 is amended as follows:	(27) Article 5 is amended as follows:
III-29	(a) paragraph 1 is replaced by the following:	(a) paragraph 1 is replaced by the following:
III-30	‘1. A competent authority of the host Member State that has reasonable grounds to consider that an insurance, reinsurance or ancillary insurance intermediary acting within its territory under the freedom to provide services infringes the obligations arising from the provisions adopted pursuant to this Directive, shall inform the competent authority of the home Member State thereof.	‘1. A competent authority of the host Member State that has reasonable grounds to consider that an insurance, reinsurance or ancillary insurance intermediary acting within its territory under the freedom to provide services infringes the obligations arising from the provisions adopted pursuant to this Directive, shall inform the competent authority of the home Member State thereof.
III-31	The competent authority of the host Member State shall inform EIOPA	The competent authority of the host Member State shall inform EIOPA about the fact that it

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	<p>about the fact that it has informed the home Member State of its considerations. EIOPA shall forward such information to the competent authorities of all other host Member States where the insurance, reinsurance or ancillary insurance intermediary is acting under the freedom to provide services.</p>	<p>has informed the home Member State of its considerations. EIOPA shall forward such information to the competent authorities of all other host Member States where the insurance, reinsurance or ancillary insurance intermediary is acting under the freedom to provide services.</p>
III-32	<p>After having assessed the information received pursuant to the first subparagraph, the competent authority of the home Member State shall, where applicable, take appropriate measures to remedy the situation at the earliest opportunity, and at the latest 30 working days after having received the communication from the competent authority of the host Member State. The competent authority of the home Member State shall inform the</p>	<p>After having assessed the information received pursuant to the first subparagraph, the competent authority of the home Member State shall, where applicable, take appropriate measures to remedy the situation at the earliest opportunity, and at the latest 30 <u>60</u> working days after having received the communication from the competent authority of the host Member State. The competent authority of the home Member State shall inform the competent authority of the host Member State of any such measures taken. The competent</p>

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	<p>competent authority of the host Member State of any such measures taken. The competent authority of the home Member State shall communicate to the competent authority of the host Member State, and to the competent authorities of all other Member States on the territory of which the insurance, reinsurance or ancillary insurance intermediary is acting under the freedom to provide services, all relevant information on the measure taken.</p>	<p>authority of the home Member State shall communicate to the competent authority of the host Member State, and to the competent authorities of all other Member States on the territory of which the insurance, reinsurance or ancillary insurance intermediary is acting under the freedom to provide services, all relevant information on the measure taken.</p>
III-33	<p>Where, despite the measures taken by the competent authority of the home Member State or because those measures prove to be inadequate or are lacking, the insurance, reinsurance or ancillary insurance intermediary persists in acting in a manner that is clearly detrimental to the interests of host Member State consumers on a large</p>	<p>Where, despite the measures taken by the competent authority of the home Member State or because those measures prove to be inadequate or are lacking, the insurance, reinsurance or ancillary insurance intermediary persists in acting in a manner that is clearly detrimental to the interests of host Member State consumers on a large scale, or to the orderly functioning of insurance and</p>

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	scale, or to the orderly functioning of insurance and reinsurance markets, the competent authority of the host Member State may, after having informed the competent authority of the home Member State, take appropriate measures to prevent further irregularities, including, in so far as is strictly necessary, preventing that intermediary from continuing to carry on new business within its territory.’;	reinsurance markets, the competent authority of the host Member State may, after having informed the competent authority of the home Member State, take appropriate measures to prevent further irregularities, including, in so far as is strictly necessary, preventing that intermediary from continuing to carry on new business within its territory.’;
III-34	(b) paragraph 3 is replaced by the following:	(b) paragraph 3 is replaced by the following:
III-35	‘The competent authorities of the host Member State shall communicate to the insurance, reinsurance or ancillary insurance intermediary concerned any measure adopted under paragraphs 1 and 2 in a well-reasoned document and notify those measures to the competent authority of the home Member State	‘3. The competent authorities of the host Member State shall communicate to the insurance, reinsurance or ancillary insurance intermediary concerned any measure adopted under paragraphs 1 and 2 in a well-reasoned document and notify those measures to the competent authority of the home Member State without undue delay. The competent authority

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	without undue delay. The competent authority of the host Member State shall also notify those measures to the Commission, EIOPA and to the competent authorities of the host Member States where the insurance, reinsurance or ancillary insurance intermediary is acting under the freedom to provide services.’;	of the host Member State shall also notify those measures to the Commission, EIOPA and to the competent authorities of the host Member States where the insurance, reinsurance or ancillary insurance intermediary is acting under the freedom to provide services.’;
III-36	(c) the following paragraph 4 is added:	(c) the following paragraph 4 is added:
III-37	‘4. Where, within 12 months, two or more competent authorities of host Member States have taken measures pursuant to paragraph 1 with respect to one or more insurance, reinsurance or ancillary insurance intermediaries having the same home Member State, or if a home Member State disagrees with the findings of a host Member State, EIOPA may set up a cooperation	‘4. Where, within 12 months, two or more competent authorities of host Member States have taken measures pursuant to paragraph 1 with respect to one or more insurance, reinsurance or ancillary insurance intermediaries having the same home Member State, or if a home Member State disagrees with the findings of a host Member State, EIOPA, <u>at the request of two or more competent authorities,</u> may set up a

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	platform in accordance with Article 12b.’;	cooperation <u>collaboration</u> platform in accordance with Article 12b.’;
III-38	(28) the following Article 9a is inserted:	(4 28) the following Article 9a is inserted:
III-39	‘Article 9a	‘Article 9a
III-40	Reporting of cross-border activities	Reporting of cross-border activities
III-41	1. Member States shall require that insurance distributors report the following information annually to the competent authority of their home Member State where they pursue insurance distribution activities with more than 50 customers on a cross-border basis:	1. Member States shall require that insurance distributors report the following information annually to the competent authority of their home Member State where they pursue insurance distribution activities with more than 50 <u>500</u> customers on a cross-border basis:
III-42	(a) the list of host Member States in which the insurance distributor is acting under the freedom to provide services or the freedom of establishment;	(a) the list of host Member States in which the insurance distributor is acting under the freedom to provide services or the freedom of establishment;
III-43	(b) the scale and scope of the insurance distribution activities carried out in each host Member State;	(b) the scale and scope of the insurance distribution activities carried out in each host Member State;

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III-44	(c) the type of insurance products distributed in each host Member State;	(c) the type of insurance products distributed in each host Member State;
III-45	(d) for each host Member State, the total number of customers, for the relevant period ending on the 31 December;	(d) for each host Member State, the total number of customers, for the relevant period ending on the 31 December;
III-46	(e) the number of complaints received from customers and interested parties in each host Member State.	(e) the number of complaints received from customers and interested parties in each host Member State.
III-47	Competent authorities shall communicate to EIOPA all information reported by insurance distributors pursuant to the first subparagraph.	Competent authorities shall communicate to EIOPA all information reported by insurance distributors pursuant to the first subparagraph.
III-48	2. EIOPA shall establish an electronic database containing the information reported pursuant to paragraph 1, second subparagraph. That database shall be made accessible to all competent authorities.	2. EIOPA shall establish an electronic database containing the information reported pursuant to paragraph 1, second subparagraph. That database shall be made accessible to all competent authorities.

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III-49	3. EIOPA shall develop draft regulatory technical standards regarding the details of the information referred to in paragraph 1.	3. EIOPA shall develop draft regulatory technical standards regarding the details of the information referred to in paragraph 1.
III-50	EIOPA shall submit those draft regulatory technical standards to the Commission by [OJ: insert date 18 months after the date of entry into force of this Directive].	EIOPA shall submit those draft regulatory technical standards to the Commission by [OJ: insert date 18 months after the date of entry into force of this Directive].
III-51	Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Article 10 of Regulation (EU) No 1094/2010.	Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Article 10 of Regulation (EU) No 1094/2010.
III-52	4. EIOPA shall develop draft implementing technical standards specifying the data standards and formats, methods and transfer arrangements, frequency and starting date for the information to be reported	4. EIOPA shall develop draft implementing technical standards specifying the data standards and formats, methods and transfer arrangements, frequency and starting date for the information to be reported and communicated pursuant to paragraph 1.

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	and communicated pursuant to paragraph 1.	
III-53	EIOPA shall submit those draft implementing technical standards to the Commission by [OJ: insert date 18 months after the date of entry into force of this Directive].	EIOPA shall submit those draft implementing technical standards to the Commission by [OJ: insert date 18 months after the date of entry into force of this Directive].
III-54	Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1094/2010.	Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1094/2010.
III-55	5. Based on the information communicated pursuant to paragraph 2, EIOPA shall publish every year a report containing anonymised and aggregated statistics on the insurance distribution activities carried out in the Union through the freedom to provide services, as well as an analysis of trends.’;	5. Based on the information communicated pursuant to paragraph 2, EIOPA shall publish every year a report containing anonymised and aggregated statistics on the insurance distribution activities carried out in the Union through the freedom to provide services, as well as an analysis of trends.’;

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III-56	(29) Article 10 is amended as follows:	(5 29) Article 10 is amended as follows:
III-57	(a) paragraph 1 is replaced by the following:	(a) paragraph 1 is replaced by the following:
III-58	‘1. Home Member States shall ensure that insurance and reinsurance distributors and employees of insurance and reinsurance undertakings carrying out insurance or reinsurance distribution activities possess the necessary knowledge and competence in order to complete their tasks and perform their duties adequately.	‘1. Home Member States shall ensure that insurance and reinsurance distributors and <u>intermediaries</u> , employees of insurance and reinsurance undertakings carrying out insurance or reinsurance distribution activities, <u>and employees of insurance and reinsurance intermediaries directly involved in insurance or reinsurance distribution activities</u> possess the necessary knowledge and competence in order to complete their tasks and perform their duties adequately.
III-58a		<u>For the purpose of the first subparagraph, home Member States shall have in place mechanisms and publish all relevant information about these mechanisms, to control effectively and assess the knowledge</u>

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		<p><u>and competence, as set out in Annex I, of insurance and reinsurance intermediaries, employees of insurance and reinsurance undertakings carrying out insurance or reinsurance distribution activities, and employees of insurance and reinsurance intermediaries directly involved in insurance or reinsurance distribution activities, by requiring a certificate or comparable form of evidence.’;</u></p>
III-59	(b) paragraph 2 is amended as follows:	(b) paragraph 2 is amended as follows:
III-60	(i) the first, second and third subparagraphs are replaced by the following:	(i) the first, second and third subparagraphs are replaced by the following:
III-61	‘Home Member States shall ensure that insurance and reinsurance intermediaries, employees of insurance and reinsurance undertakings and employees of insurance and reinsurance intermediaries maintain and update their	‘Home Member States shall ensure that insurance and reinsurance intermediaries, employees of insurance and reinsurance undertakings <u>carrying out insurance or reinsurance distribution activities,</u> and employees of insurance and reinsurance

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	<p>knowledge and competence by undertaking regular professional development and training, including specific training where new insurance products or services are being offered by the insurance or reinsurance undertakings and intermediaries.</p>	<p>intermediaries <u>directly involved in insurance or reinsurance distribution activities</u> maintain and update their knowledge and competence, <u>as set out in Annex I</u>, by undertaking regular professional development and training, including specific training where new insurance products or services are being offered by the insurance or reinsurance undertakings and intermediaries.</p>
III-62	<p>For the purpose of the first subparagraph, home Member States shall have in place and publish mechanisms to control effectively and assess the knowledge and competence of insurance and reinsurance intermediaries, employees of insurance and reinsurance undertakings and employees of insurance and reinsurance intermediaries, as set out in Annex I, based on at least 15 hours of professional training or development</p>	<p>For the purpose of the first subparagraph, home Member States shall have in place <u>mechanisms</u> and publish <u>all relevant information about these</u> mechanisms to control effectively and assess the knowledge and competence of <u>successful completion</u> by insurance and reinsurance intermediaries, employees of insurance and reinsurance undertakings <u>carrying out insurance or reinsurance distribution activities</u>, and employees of insurance and reinsurance intermediaries <u>directly involved in insurance</u></p>

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	per year, taking into account the nature of the products sold, the type of distributor, the role they perform, and the activity carried out within the insurance or reinsurance distributor.	or reinsurance distribution activities, of as set out in Annex I, based on at least 15 hours of professional training or development per year, taking into account the nature of the products sold, the type of distributor, the role they perform, and the activity carried out within the insurance or reinsurance distributor.
III-63	Home Member States shall require that compliance with the criteria set out in Annex I, as well as the yearly successful completion of the continuous professional training and development is proven by a certificate.	To that end, h Home Member States shall require that compliance with the criteria set out in Annex I, as well as the yearly successful completion of continuous professional training and development is proven by a certificate <u>or equivalent proof of completion of such training and development.</u> ;
III-64	(ii) the following subparagraph is added:	(ii) the following subparagraph is added:
III-65	‘The Commission shall be empowered to amend this Directive by adopting	‘The Commission shall be empowered to amend this Directive by adopting delegated

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	delegated acts in accordance with Article 38 to review, where necessary, the requirements set out in Annex I.’;	acts in accordance with Article 38 to review, where necessary, the requirements set out in Annex I.’;
III-66	(c) paragraph 4 is replaced by the following:	(c) paragraph 4 is replaced by the following:
III-67	‘4. Insurance and reinsurance intermediaries shall hold professional indemnity insurance covering the whole territory of the Union or some other comparable guarantee against liability arising from professional negligence, for at least EUR 1 250 000 applying to each claim and in aggregate EUR 1 850 000 per year for all claims, unless such insurance or comparable guarantee is already provided by an insurance undertaking, reinsurance undertaking or other undertaking on whose behalf the insurance or reinsurance intermediary is acting or for which the insurance or reinsurance intermediary is empowered	‘4. Insurance and reinsurance intermediaries shall hold professional indemnity insurance covering the whole territory of the Union or some other comparable guarantee against liability arising from professional negligence, for at least EUR 1 250 000 applying to each claim and in aggregate EUR 1 850 000 per year for all claims, unless such insurance or comparable guarantee is already provided by an insurance undertaking, reinsurance undertaking or other undertaking on whose behalf the insurance or reinsurance intermediary is acting or for which the insurance or reinsurance intermediary is empowered to act or such undertaking has

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	to act or such undertaking has taken on full responsibility for the intermediary's actions.';	taken on full responsibility for the intermediary's actions.';
III-68	(d) in paragraph 6, point (b) is replaced by the following:	(d) in paragraph 6, point (b) is replaced by the following:
III-69	'(b) a requirement for the intermediary to have financial capacity amounting, on a permanent basis, to 4 % of the sum of annual premiums received, subject to a minimum of EUR 18 750;';	'(b) a requirement for the intermediary to have financial capacity amounting, on a permanent basis, to 4 % of the sum of annual premiums received, subject to a minimum of EUR 18 750;';
III-70	(30) in Article 12(3) the following subparagraphs are added:	(30) in Article 12(3) the following subparagraphs are added:
III-71	'The powers referred to in the first subparagraph, first sentence, shall include the power to:	'The powers referred to in the first subparagraph, first sentence, shall include <u>at least</u> the power to:
III-72	(a) have access to any document or other data in any form which the competent authority considers could be relevant and necessary for the performance of its duties and receive or	(a) have access to any document or other data in any form which the competent authority considers could be relevant and necessary for the performance of its duties and receive or take a copy of that document or those data;

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	take a copy of that document or those data;	
III-73	(b) require or demand the provision of information from any person and if necessary to summon and question a person to obtain information;	(b) require or demand the provision of information from any person and if necessary to summon and question a person to obtain information;
III-74	(c) carry out on-site inspections or investigations;	(c) carry out on-site inspections or investigations;
III-75	(d) carry out mystery shopping activities;	(d) carry out mystery shopping activities;
III-76	(e) require the freezing or the sequestration of assets, or both;	(e) require the freezing or the sequestration of assets, or both;
III-77	(f) require the temporary prohibition of professional activity;	(f) require the temporary prohibition of professional activity;
III-78	(g) require the auditors of insurance undertakings or insurance intermediaries to provide information;	(g) require the auditors of insurance <u>or reinsurance distributors undertakings</u> or insurance intermediaries to provide information;
III-79	(h) refer matters for criminal prosecution;	(h) refer matters for criminal prosecution;

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III-80	(i) allow auditors or experts to carry out verifications or investigations;	(i) allow auditors or experts to carry out verifications or investigations;
III-81	(j) suspend or prohibit for a maximum duration of 1 year marketing communications or practices used in their Member State, where there are reasonable grounds for believing that this Directive has been infringed.;	(j) suspend or prohibit , for a maximum duration of <u>one</u> year, <u>renewable for further periods not exceeding one year at a time if the grounds for the temporary suspension continue to be applicable</u> , marketing communications or practices used in their Member State, where there are reasonable grounds for believing that this Directive has been infringed;
III-82	(k) require the temporary or permanent cessation of any practice or conduct that the competent authority considers to be contrary to the provisions adopted in the implementation of this Directive and prevent repetition of that practice or conduct;	(k) require the temporary or permanent cessation of any practice or conduct that the competent authority considers to be contrary to the provisions adopted in the implementation of this Directive and prevent repetition of that practice or conduct;
III-83	(l) adopt any other type of measure to ensure that insurance undertakings	(l) adopt any other type of measure to ensure that insurance <u>or reinsurance distributors</u>

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	and insurance intermediaries continue to comply with legal requirements;	undertakings and insurance intermediaries continue to comply with legal requirements;
III-84	(m) suspend or prohibit the distribution of an insurance-based investment product;	(m) suspend or prohibit the distribution of an insurance-based investment product;
III-85	(n) suspend the distribution of an insurance-based investment product where the insurance undertaking or insurance distributor has failed to comply with Article 25;	(n) suspend the distribution of an insurance-based investment product where the insurance undertaking or insurance distributor has failed to comply with Article 25;
III-86	(o) require the removal of a natural person from the management board of an insurance undertaking or insurance distributor;	(o) require the removal of a natural person from the management board of an insurance or reinsurance undertaking or insurance distributor;
III-87	(p) take all the necessary measures, including by requesting a third party or other public authority to implement such measures, whether on a temporary or permanent basis, to:	(p) <u>to the extent permitted by national law,</u> take all the necessary measures, including by requesting a third party or other public authority to implement such measures, whether on a temporary or permanent basis, to:
III-88	(i) remove content or to restrict access to an online interface or to order the	(i) remove content or to restrict access to an online interface or to order the explicit display

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	explicit display of a warning to customers when they access an online interface;	of a warning to customers when they access an online interface;
III-89	(ii) order a hosting service provider to remove, disable or restrict access to an online interface;	(ii) order a hosting service provider to remove, disable or restrict access to an online interface;
III-90	(iii) order domain registries or registrars to delete a fully qualified domain name and to allow the competent authority concerned to register it;	(iii) order domain registries or registrars to delete a fully qualified domain name and to allow the competent authority concerned to register it;
III-91	(q) impose the use of risk warnings for insurance-based investment products in information materials, including marketing communications, related to particularly risky insurance-based investment products and, where applicable, underlying investment assets, where those products and assets could pose a serious threat to investor protection.’;	(q) impose the use of risk warnings for insurance-based investment products <u>on insurance undertakings or insurance intermediaries</u> in information materials, <u>provided to customers related to concerning</u> particularly risky insurance-based investment products and, where applicable, underlying investment assets; where those products and assets, could pose a serious threat to investor protection.

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III-91a		<u>(qa) require insurance undertakings or insurance intermediaries to cease from using risk warnings in information materials, including marketing communications, provided to consumers concerning insurance-based investment products that are not considered as particularly risky.</u>
III-92	When making use of the powers referred to in point (j), the competent authority shall notify EIOPA. Where such practices or communications are used in more than one Member State, EIOPA shall, upon request of at least one competent authority, coordinate actions taken by competent authorities pursuant to point (j).	When making use of the powers referred to in point (j), the competent authority shall notify EIOPA. Where such practices or communications are used in more than one Member State, EIOPA shall, upon request of at least one competent authority, coordinate actions taken by competent authorities pursuant to point (j).
III-93	The implementation and the exercise of powers set out in this paragraph shall be proportionate and shall comply with Union and national law, including with	The implementation and the exercise of powers set out in this paragraph shall be proportionate and shall comply with Union and national law, including with applicable

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	applicable procedural safeguards and with the principles of the Charter of Fundamental Rights of the European Union. The investigation and enforcement measures adopted pursuant to this Directive shall be appropriate to the nature and the overall actual or potential harm of the infringement.’;	procedural safeguards and with the principles of the Charter of Fundamental Rights of the European Union. The investigation and enforcement measures adopted pursuant to this Directive shall be appropriate to the nature and the overall actual or potential harm of the infringement.’;
III-94	(31) the following Articles 12a and 12b are inserted:	(7 31) the following Articles 12a and 12b are inserted:
III-95	‘Article 12 a	‘Article 12a
III-96	Cooperation and exchange of information with EIOPA	Cooperation and exchange of information with EIOPA
III-97	1. The competent authorities shall cooperate with EIOPA for the purposes of this Directive.	1. The competent authorities shall cooperate with EIOPA for the purposes of this Directive.
III-98	2. The competent authorities shall, without undue delay, provide EIOPA with all information EIOPA needs to carry out its duties under this Directive.	2. The competent authorities shall, without undue delay, provide EIOPA with all information EIOPA needs to carry out its duties under this Directive.
III-99	Article 12b	Article 12b

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III-100	Collaboration platforms	Collaboration platforms
III-101	<p>1. EIOPA may, in the case of justified concerns about negative effects on policyholders, on its own initiative or at the request of one or more of the competent authorities, set up and coordinate a collaboration platform, to strengthen the exchange of information and to enhance collaboration between the relevant supervisory authorities where an insurance or reinsurance distributor carries out, or intends to carry out, insurance distribution activities which are based on the freedom to provide services or the freedom of establishment and where such activities are of relevance with respect to the host Member State's market. If a collaboration platform is set up at the request of a competent authority, that competent authority shall</p>	<p>1. EIOPA may, in the case of justified concerns about negative effects on <u>customers</u> policyholders, on its own initiative or at the request of one <u>two</u> or more of the competent authorities, set up and coordinate a collaboration platform, to strengthen the exchange of information and to enhance collaboration between the relevant supervisory authorities where an insurance or reinsurance distributor carries out, or intends to carry out, insurance distribution activities which are based on the freedom to provide services or the freedom of establishment and where such activities are of relevance with respect to the host Member State's market. If a collaboration platform is set up at the request of <u>a</u> competent authoritiesy, thoseat competent authoritiesy shall notify the competent authority of the home Member State of <u>its</u> <u>their</u> justified</p>

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	notify the competent authority of the home Member State of its justified concerns about negative effects on investors.	concerns about negative effects on investors <u>customers</u> .
III-102	2. Paragraph 1 shall be without prejudice to the right of the relevant supervisory authorities to set up a collaboration platform where they all agree to do so.	2. Paragraph 1 shall be without prejudice to the right of the relevant supervisory authorities to set up a collaboration platform where they all agree to do so.
III-103	3. The setting up of a collaboration platform pursuant to paragraphs 1 and 2 is without prejudice to the supervisory mandate of the supervisory authorities of the home Member State and host Member State provided for in this Directive.	3. The setting up of a collaboration platform pursuant to paragraphs 1 and 2 is without prejudice to the supervisory mandate of the supervisory authorities of the home Member State and host Member State provided for in this Directive.
III-104	4. Without prejudice to Article 35 of Regulation (EU) No 1094/2010, at the request of EIOPA, the relevant competent authorities shall provide all	4. Without prejudice to Article 35 of Regulation (EU) No 1094/2010, at the request of EIOPA, the relevant competent authorities shall provide all necessary information in a timely manner.

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	necessary information in a timely manner.	
III-105	5. Where two or more competent authorities of a collaboration platform disagree about the procedure or content of an action to be taken, or inaction, EIOPA may, at the request of any relevant competent authority or on its own initiative, assist the competent authorities in reaching an agreement in accordance with Article 19(1) of Regulation (EU) No 1094/2010.	5. Where two or more competent authorities of a collaboration platform disagree about the procedure or content of an action to be taken, or inaction, EIOPA may, at the request of any relevant competent authority or on its own initiative, assist the competent authorities in reaching an agreement in accordance with Article 19(1) of Regulation (EU) No 1094/2010.
III-106	6. In the event of disagreement within the platform and where there are serious concerns about negative effects on policyholders or about the content of an action or inaction to be taken in relation to an insurance or reinsurance distributor, EIOPA may, in accordance with Article 16 of Regulation (EU) No 1094/2010, issue a recommendation to	6. In the event of disagreement within the platform and where there are serious concerns about negative effects on policyholders customers or about the content of an action or inaction to be taken in relation to an insurance or reinsurance distributor, EIOPA may, in accordance with Article 16 of Regulation (EU) No 1094/2010, issue a recommendation to the competent authority of the home Member State

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	the competent authority of the home Member State to consider the concerns of other competent authorities concerned and to launch a joint on-site inspection together with other competent authorities concerned.’;	to consider the concerns of other competent authorities concerned and to launch a joint on-site inspection together with other competent authorities concerned.’;
III-107	(32) Article 14 is replaced by the following:	(8 32) Article 14 is replaced by the following:
III-108	‘Article 14	‘Article 14
III-109	Complaints	Complaints
III-110	Member States shall ensure that insurance and reinsurance distributors establish appropriate procedures and arrangements, including electronic communication channels, to ensure that complaints from customers and other interested parties, especially consumer associations, are dealt with properly and that there are no restrictions on customers and other interested parties exercising their rights under this	Member States shall ensure that insurance and reinsurance distributors establish appropriate procedures and arrangements, including electronic communication channels, to ensure that complaints from customers and other interested parties, especially consumer associations, are dealt with properly and that there are no restrictions on customers and other interested parties exercising their rights under this Directive. Those procedures and arrangements shall allow customers and other

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	<p>Directive. Those procedures and arrangements shall allow customers and other interested parties to register complaints and receive replies in the same language in which the communication material or any contractual documents were provided. In all cases, complainants shall receive replies within 40 working days.’;</p>	<p>interested parties to register complaints and receive replies in the same language in which the communication material or any contractual documents were provided. In all cases, complainants shall receive replies within 40 working days <u>In all cases, insurance and reinsurance distributors shall communicate their decision on a complaint to the complainant in a timely manner, taking into account the subject matter of the complaint and, in any event, no later than 40 working days from the date on which the complaint was received by the insurance and reinsurance distributor.</u></p> <p><u>Where, in exceptional situations, the decision on a complaint cannot be communicated within the period referred to in the previous subparagraph, insurance and reinsurance distributors shall inform the complainant of the reasons for the delay and indicate a reasonable timeframe in</u></p>

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		<p><u>which the decision will be communicated.</u></p> <p><u>Any communication made by the insurance and reinsurance distributors under this paragraph, that is addressed to a complainant, shall be made in the language in which the complainant filed its complaint, provided that the language used by the complainant is one of the languages referred to in the first subparagraph.’;</u></p>
III-111	(33) the following Articles 16a and 16b are inserted:	(9 33) the following Articles 16a and 16b are inserted:
III-112	‘Article 16a	‘Article 16a
III-113	Financial education of customers	Financial education of customers
III-114	Member States shall promote measures that support the education of customers in relation to the responsible purchase of insurance products when accessing insurance services or ancillary services.	<p><u>1.</u> Member States shall promote measures that support the education of customers in relation to the responsible purchase of insurance products when accessing <u>investment services</u> <u>or ancillary services</u> <u>insurance distribution activities.</u> <u>Where appropriate, the measures shall target the needs of specific age groups</u></p>

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		<u>and of other specific target groups and take into account the joint EU/OECD-INFE financial competence frameworks.</u>
III-114a		<u>2. Member States shall designate one or more competent authorities or one or more public bodies to achieve the objective set out in paragraph 1.</u>
III-115	Article 16b	Article 16b
III-116	Financial education of customers and marketing communication	Financial education of customers and marketing communication
III-117	Financial education material that aims to support individuals' financial literacy by enabling them to acquire financial competences, and that does not directly promote or entice investment in one or several insurance products, or categories thereof, or specific insurance services, shall not be deemed to constitute a marketing communication for the purposes of this Directive.';	Financial education material that aims to support individuals' financial literacy by enabling them to acquire financial competences, and that does not directly promote or entice investment in one or several insurance products, or categories thereof, or specific insurance services, shall not be deemed to constitute a marketing communication for the purposes of this Directive.';

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III-118	(34) in Article 17, paragraph 2 is replaced by the following:	(10 34) in Article 17, paragraph 2 is replaced by the following:
III-119	‘2. Member States shall ensure that all information related to the subject of this Directive, including marketing communications, shall be fair, clear and not misleading.	‘2. Member States shall ensure that all information related to the subject of this Directive, including marketing communications, shall be fair, clear and not misleading.
III-120	Marketing communications shall be clearly identifiable as such and shall clearly identify the insurance undertaking or insurance distributor responsible for their content and distribution, regardless of whether the communication is made directly or indirectly by that insurance undertaking or insurance distributor.’;	Marketing communications shall be clearly identifiable as such and shall clearly identify the insurance undertaking or insurance distributor intermediary responsible for their content and distribution, regardless of whether the communication is made directly or indirectly by that insurance undertaking or insurance distributor.’;
III-121	(35) Article 18 is replaced by the following:	(11 35) Article 18 is replaced by the following:
III-122	‘Article 18	‘Article 18
III-123	General information to be provided to the customer	General information to be provided to the customer

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III-124	1. Member States shall ensure that in good time before the customer is bound by an insurance contract or offer, the following information about the insurance undertaking which is party to the proposed contract shall be communicated to the customer:	1. Member States shall ensure that in good time before the customer is bound by an insurance contract or offer, the following information about the insurance undertaking which is party to the proposed contract shall be communicated <u>provided</u> to the customer:
III-125	(a) the name of the undertaking and its legal form;	(a) the name of the <u>insurance</u> undertaking, and its legal form <u>and the address of its head office;</u>
III-126	(b) where the insurance contract is proposed under the right of establishment or the freedom to provide services, the Member State in which the head office of the insurance undertaking and, where appropriate, the branch proposing the contract is located;	(b) where the insurance contract is proposed under the right of establishment or the freedom to provide services, the Member State in which the head office of the insurance undertaking and, where appropriate, <u>the address of</u> the branch proposing the <u>insurance</u> contract is located;

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III-127	(c) the address of the head office and, where appropriate, of the branch proposing the contract;	<p>(c) the address of the head office and, where appropriate, of the branch proposing the contract</p> <p><u>(c) where the insurance contract is proposed under the freedom to provide services, the Member State in which the head office of the insurance undertaking is located and, where appropriate, the address of the branch proposing the insurance contract;</u></p>
III-128	(d) information that the insurance undertaking is authorised pursuant to Article 14 of Directive 2009/138/EC, the national competent authority which granted the authorisation and the means for verifying the authorisation;	(d) information that the insurance undertaking is authorised pursuant to Article 14 of Directive 2009/138/EC, the national competent authority which granted the authorisation and the means for verifying the authorisation;
III-129	(e) a reference to the report on solvency and financial condition as laid down in Article 51 of Directive	(e) a concrete reference to the report on solvency and financial condition as laid down in Article 51 of Directive 2009/138/EC.

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	2009/138/EC. allowing the customer easy access to this information.	allowing the customer easy access to this information.
III-130	2. Where the insurance contract is proposed by an insurance intermediary, that insurance intermediary shall, in good time before the customer is bound by the contract or offer, communicate the following additional information to the customer:	2. Where the insurance contract is proposed by an insurance intermediary, that insurance intermediary shall, in good time before the customer is bound by the contract or offer, communicate <u>provide, in addition to the information indicated in paragraph 1,</u> the following <u>additional</u> information to the customer:
III-131	(a) the name of the insurance intermediary, its legal form and address and the fact that it is an insurance intermediary;	(a) the name of the insurance intermediary, its legal form and address and the fact that it is an insurance intermediary;
III-132	(b) where the insurance intermediary is acting under the right of establishment or the freedom to provide services, the Member State in which the head office of the insurance intermediary and, where appropriate,	(b) where the insurance intermediary is acting under the right of establishment or the freedom to provide services, the Member State in which the head office of the insurance intermediary and, where

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	the branch proposing the contract is located;	appropriate, <u>the address</u> of the branch proposing the <u>insurance</u> contract is located ;
III-133a		(ba) <u>where the insurance intermediary is acting under the freedom to provide services, the Member State in which the head office of the insurance intermediary is located and, where appropriate, the address of the branch proposing the insurance contract;</u>
III-133b	(c) whether the insurance intermediary provides advice about the proposed insurance contract;	(c) whether the insurance intermediary provides advice about the proposed insurance contract;
III-134	(d) the procedures referred to in Article 14 enabling customers and other interested parties to register complaints about insurance intermediaries and about the out-of-court complaint and redress procedures referred to in Article 15;	(d) the procedures referred to in Article 14 enabling customers and other interested parties to register complaints about insurance intermediaries and about the out-of-court complaint and redress procedures referred to in Article 15;

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III-135	(e) the register in which the insurance intermediary has been included and the means for verifying that it has been registered;	(e) the register in which the insurance intermediary has been included and the means for verifying that it has been registered;
III-136	(f) whether the insurance intermediary is representing the customer or is acting for and on behalf of the insurance undertaking.	(f) whether the insurance intermediary is representing the customer or is acting for and on behalf of the insurance undertaking.
III-137	3. Where the insurance contract is proposed by an insurance undertaking, that insurance undertaking shall, in good time before the customer is bound by the contract or offer, communicate the following additional information to the customer:	3. Where the insurance contract is proposed by an insurance undertaking, that insurance undertaking shall, in good time before the customer is bound by the contract or offer, communicate <u>provide, in addition to the information indicated in paragraph 1,</u> the following additional information to the customer:
III-138	(a) the name of the insurance undertaking, its legal form and address, and the fact that it is an insurance undertaking, insofar as this has not	(a) the name of the insurance undertaking, its legal form and address, and the fact that it is an insurance undertaking, insofar as this has not already been communicated in accordance with paragraph 1, point (a);

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	already been communicated in accordance with paragraph 1, point (a);	
III-139	(b) whether it provides advice about the proposed insurance contract;	(b) whether it provides advice about the proposed insurance contract;
III-140	(c) the procedures referred to in Article 14 enabling customers and other interested parties to register complaints about insurance undertakings and about the out-of-court complaint and redress procedures referred to in Article 15;	(c) the procedures referred to in Article 14 enabling customers and other interested parties to register complaints about insurance undertakings and about the out-of-court complaint and redress procedures referred to in Article 15;
III-141	(d) information that the insurance undertaking is authorised pursuant to Article 14 of Directive 2009/138/EC, the national competent authority which granted the authorisation and the means for verifying the authorisation, unless this has already been communicated in accordance with paragraph 1, point (d);	(d) information that the insurance undertaking is authorised pursuant to Article 14 of Directive 2009/138/EC, the national competent authority which granted the authorisation and the means for verifying the authorisation, unless this has already been communicated in accordance with paragraph 1, point (d);
III-142	(e) whether the insurance undertaking is the manufacturer of the proposed contract or whether it is	(e) whether the insurance undertaking is the manufacturer of the proposed contract or, where applicable , whether it is distributing

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	distributing the proposed contract on behalf of another insurance undertaking.’;	the proposed contract on behalf of another insurance undertaking.’;
III-143	(36) Article 19 is amended as follows:	(12 36) Article 19 is amended as follows:
III-144	(a) the title is replaced by the following:	(a) the title is replaced by the following:
III-145	‘Disclosures’;	‘Disclosures’;
III-146	(b) paragraph 1 is amended as follows:	(b) paragraph 1 is amended as follows:
III-147	(i) the introductory wording is replaced by the following:	(i) the introductory wording is replaced by the following:
III-148	‘Member States shall ensure that in good time before the customer is bound by an insurance contract or offer, an insurance intermediary provides the customer with at least the following information.’;	‘Member States shall ensure that in good time before the customer is bound by an insurance contract or offer, an insurance intermediary provides the customer with at least the following information.’;
III-149	(ii) in point (c), the introductory wording is replaced by the following:	(ii) in point (c), the introductory wording is replaced by the following:

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III-150	‘in relation to insurance products other than insurance-based investment products, whether:’;	‘in relation to insurance products other than insurance-based investment products, whether:’;
III-151	(iii) point (d) is replaced by the following:	(iii) point (d) is replaced by the following:
III-152	‘(d) the nature of the remuneration received in relation to the insurance contract, in particular whether it works:	‘(d) the nature of the remuneration received in relation to the insurance contract, in particular whether it works:
III-153	(i) on the basis of a fee, that is the remuneration paid directly by the customer;	(i) on the basis of a fee, that is the remuneration paid directly by the customer;
III-154	(ii) on the basis of a commission of any kind, that is the remuneration included in the insurance premium;	(ii) on the basis of a commission of any kind, that is the remuneration included in the insurance premium;
III-155	(iii) on the basis of any other type of remuneration, including an economic benefit of any kind offered or given in connection with the insurance contract; or	(iii) on the basis of any other type of remuneration, including an economic benefit of any kind offered or given in connection with the insurance contract; or

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III-156	(iv) on the basis of a combination of any type of remuneration set out at points (i), (ii) and (iii).’;	(iv) on the basis of a combination of any type of remuneration set out at points (i), (ii) and (iii).’;
III-157	(iv) point (e) is deleted;	(iv) point (e) is deleted;
III-158	(c) paragraph 4 is replaced by the following:	(c) paragraph 4 is replaced by the following:
III-159	‘4. Member States shall ensure that in good time before the customer is bound by an insurance contract or offer, an insurance undertaking communicates to its customer the nature of the remuneration received by its employees in relation to the insurance contract.’;	‘4. Member States shall ensure that in good time before the customer is bound by an insurance contract or offer, an insurance undertaking communicates to its customer the nature of the remuneration received by its employees in relation to the insurance contract.’;
III-160	(37) Article 20 is amended as follows:	(13 37) Article 20 is amended as follows:
III-161	(a) in paragraph 1, the first subparagraph is replaced by the following:	(a) in paragraph 1, the first subparagraph is replaced by the following:
III-162	‘1. In good time before the customer is bound by an insurance contract or offer, the insurance distributor shall specify,	‘1. In good time before the customer is bound by an insurance contract or offer, the insurance distributor shall specify, on the basis of

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	on the basis of information obtained from the customer, the demands and the needs of that customer and shall provide the customer with objective information about the insurance product in a comprehensible form to allow that customer to make an informed decision.’	information obtained from the customer, the demands and the needs of that customer and shall provide the customer with objective information about the insurance product in a comprehensible form to allow that customer to make an informed decision.’;
III-163	(b) paragraphs 3, 4 and 5 are replaced by the following:	(b) paragraphs 3, 4, and 5 are replaced by the following:
III-164	‘3. Where an insurance intermediary distributing insurance products other than insurance-based investment products informs the customer that it gives its advice on the basis of a fair and personal analysis, it shall give that advice on the basis of an analysis of a sufficiently large number of insurance contracts available on the market to enable it to make a personal recommendation, in accordance with	‘3. Where an insurance intermediary distributing insurance products other than insurance-based investment products informs the customer that it gives its advice on the basis of a fair and personal analysis, it shall give that advice on the basis of an analysis of a sufficiently large number of insurance contracts available on the market to enable it to make a personal recommendation, in accordance with professional criteria,

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	professional criteria, regarding which insurance contract would be adequate to meet the customer's needs.	regarding which insurance contract would be adequate to meet the customer's needs.
III-165	4. In good time before the customer is bound by an insurance contract or offer, whether or not advice is given and irrespective of whether the insurance product is part of a package pursuant to Article 24 of this Directive, the insurance distributor shall provide the customer with the relevant information about the insurance product in a comprehensible form to allow the customer to make an informed decision, while taking into account the complexity of the insurance product and the type of customer.	4. In good time before the customer is bound by an insurance contract or offer, whether or not advice is given and irrespective of whether the insurance product is part of a package pursuant to Article 24 of this Directive, the insurance distributor shall provide the customer with the relevant information about the insurance product in a comprehensible form to allow the customer to make an informed decision, while taking into account the complexity of the insurance product and the type of customer.
III-166	5. In relation to the distribution of non-life insurance products as listed in Annex I to Directive 2009/138/EC and to life insurance products as listed in	5. In relation to the distribution of non-life insurance products as listed in Annex I to Directive 2009/138/EC and to life insurance products as listed in Annex II to Directive

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	Annex II to Directive 2009/138/EC other than insurance-based investment products, the information referred to in paragraph 4 of this Article shall be provided to retail customers by way of a standardised insurance product information document on paper or on another durable medium.’;	2009/138/EC other than insurance-based investment products, the information referred to in paragraph 4 of this Article shall be provided to retail customers by way of a standardised insurance product information document on paper or on another durable medium.’;
III-167	(c) paragraph 8 is amended as follows:	(c) paragraph 8 is amended as follows:
III-168	(i) the introductory wording is replaced by the following:	(i) the introductory wording is replaced by the following:
III-169	‘For non-life insurance products, the insurance product information document shall contain the following information:’;	‘For non-life insurance products, the insurance product information document shall contain the following information:’;
III-170	(ii) the following point (j) is added:	(ii) the following point (j) is added:
III-171	‘(j) the law applicable to the contract where the parties do not have a choice of law or, where the parties can choose the law applicable to the contract, the	(j) the law applicable to the insurance contract; where the parties do not have a choice of law or, where the parties can choose the law applicable to the contract,

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	law that the insurance undertaking proposes to choose, and the competent jurisdiction.’;	where the insurance undertaking proposes a choice of law, the law that the insurance undertaking proposes to choose.’; and the competent jurisdiction.
III-171a		<u>(ca) paragraph 6 is replaced by the following:</u>
III-171b		<u>“(6) The manufacturer of the insurance product shall draw up the insurance product information document referred to in paragraph 5 in accordance with the requirements set out in paragraphs 7, 8, 8a and 9 and shall publish the document on its website.”;</u>
III-172	(d) the following paragraph 8a is inserted:	(d) the following paragraph 8a is inserted:
III-173	‘8a. For life insurance products other than insurance-based investment products, the insurance product information document shall contain the following:	‘8a. For life insurance products other than insurance-based investment products, the insurance product information document shall contain the following:

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III-174	(a) information about the type of insurance;	(a) information about the type of insurance;
III-175	(b) a summary of the insurance cover, including details of the insurance benefits and options and the circumstances that would trigger them, and, where applicable, a summary of the excluded risks;	(b) a summary of the insurance cover, including details of the insurance benefits and options and the circumstances that would trigger them, and, where applicable, a summary of the excluded risks;
III-176	(c) the means of payment of premiums and the duration of payments;	(c) the means of payment of premiums and the duration of payments;
III-177	(d) information on the premiums for each benefit, both main benefits and supplementary benefits, where applicable;	(d) information on the premiums for each benefit, both main benefits and supplementary benefits, where applicable;
III-178	(e) where applicable, the means of calculation and distribution of bonuses;	(e) where applicable, the means of calculation and distribution of bonuses;
III-179	(f) main exclusions where claims cannot be made;	(f) main exclusions where claims cannot be made;
III-180	(g) obligations at the start of the contract;	(g) obligations at the start of the contract;

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III-181	(h) obligations during the term of the contract;	(h) obligations during the term of the contract;
III-182	(i) obligations in the event that a claim is made;	(i) obligations in the event that a claim is made;
III-183	(j) an indication of surrender and paid-up values and the extent to which they are guaranteed;	(j) an indication of surrender and paid-up values and the extent to which they are guaranteed;
III-184	(k) information on the right of cancellation pursuant to Article 186 of Directive 2009/138/EC, in particular details on the time-limitations and conditions for the exercise of that right;	(k) information on the right of cancellation pursuant to Article 186 of Directive 2009/138/EC, in particular details on the time-limitations and conditions for the exercise of that right;
III-185	(l) general information on the tax rules applicable to the type of insurance policy;	(l) general information on the tax rules applicable to the type of insurance policy;
III-186	(m) the term of the insurance contract, including the start and end dates of the contract;	(m) the term of the insurance contract, including the start and end dates of the contract;
III-187	(n) the means of terminating the contract;	(n) the means of terminating the contract;

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III-188	(o) the law applicable to the contract where the parties do not have a choice of law or, where the parties can choose the law applicable to the contract, the law that the insurance undertaking proposes to choose, and the competent jurisdiction.’;	(o) the law applicable to the contract; where the parties do not have a choice of law or, where the parties can choose the law applicable to the contract, <u>where the insurance undertaking proposes a choice of law</u> , the law that the insurance undertaking proposes to choose.’; and the competent jurisdiction.
III-189	(e) paragraph 9 is amended as follows:	(e) paragraph 9 is amended as follows:
III-190	(i) in the first subparagraph, ‘paragraph 8’ is replaced by ‘paragraph 8a’;	(i) in the first subparagraph, ‘paragraph 8’ is replaced by ‘paragraphs 8 and 8a’;
III-191	(ii) in the second subparagraph, ‘23 February 2017’ is replaced by [DATE TBD IN ACCORDANCE TO DATE OF ADOPTION].;	(ii) in the second subparagraph, ‘23 February 2017’ is replaced by [DATE TBD IN ACCORDANCE TO DATE OF ADOPTION].;
III-192	(38) in Article 22(1), the first subparagraph is replaced by the following:	(14 38) in Article 22(1), the first subparagraph is replaced by the following:
III-193	‘The information referred to in Articles 18, 19 and 20 need not be provided	‘The information referred to in Articles 18, 19 and 20 need not be provided when the

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	<p>when the insurance distributor carries out distribution activities in relation to the insurance of large risks or with customers meeting the criteria for professional clients as defined in Article 4(1), point (10), of Directive 2014/65/EU of the European Parliament and of the Council*.'</p> <hr/> <p>*Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349).';</p>	<p>insurance distributor carries out distribution activities in relation to the insurance of large risks or with customers meeting the criteria for professional clients as defined in Article 4(1), point (10), of Directive 2014/65/EU of the European Parliament and of the Council*.</p> <hr/> <p>*Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349).';</p>
III-194	(39) Article 23 is replaced by the following:	(15 39) Article 23 is replaced by the following:
III-195	‘Article 23	‘Article 23
III-196	Electronic distribution and other durable means	Electronic distribution, telephone selling and other durable means

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III-197	1. Insurance distributors shall provide all information required by this Directive to customers in electronic format.	1. Insurance distributors shall provide all information required by this Directive to customers in electronic format.
III-198	By way of derogation from the first subparagraph, insurance distributors shall provide, upon request from the retail customer, the information referred to in the first subparagraph, free of charge on paper.	By way of derogation from the first subparagraph, insurance distributors shall provide, upon request from the <u>retail</u> customer, the information referred to in the first subparagraph, free of charge on paper.
III-199	2. Insurance distributors shall inform retail customers that they have the option of receiving the information free of charge on paper.	2. Insurance distributors shall inform <u>retail their</u> customers, <u>in good time before they are bound by the contract or offer,</u> that they have the option of receiving the information free of charge on paper.
III-200	3. Insurance distributors shall inform the existing retail customers that they have the choice either to continue receiving the information free of charge on paper or to receive the information	3. Insurance distributors shall inform the <u>their</u> existing <u>retail</u> customers <u>who receive the information in paper format</u> that they have the choice either to continue receiving the information free of charge on paper or to

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	<p>only in electronic format. Insurance distributors shall inform existing retail customers that an automatic switch to the electronic format will occur after a period of at least eight weeks, if they do not request the continuation of the provision of the information on paper within that eight weak period. Existing retail customers who already receive the information referred to in paragraph 1 in electronic format do not need to be informed.</p>	<p>receive the information only in electronic format. Insurance distributors shall inform existing retail customers <u>who receive the information on paper format, that-if they do not indicate a choice, the paper format will remain until the customer consents to an electronic format.</u> that an automatic switch to the electronic format will occur after a period of at least eight weeks, if they do not request the continuation of the provision of the information on paper within that eight week period. Existing retail customers who already receive the information referred to in paragraph 1 in electronic format do not need to be informed.</p>
III-201	<p>4. EIOPA shall, after consulting ESMA and after conducting consumer testing and industry testing, by [2 years after the entry into force of the amending Directive] develop, and update periodically, guidelines</p>	<p>4. EIOPA shall, after consulting ESMA and after conducting consumer testing and industry testing, by [2 years after the entry into force of the amending Directive] develop, and update periodically, guidelines specifying the presentation of information provided in an</p>

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	specifying the presentation of information provided in an electronic format in a suitable way for the average customer to whom the information is directed.	electronic format in a suitable way for the average customer to whom the information is directed.
III-202	The guidelines referred to in the first subparagraph shall specify:	The guidelines referred to in the first subparagraph shall specify:
III-203	(a) the presentation and format of the digital disclosures, considering the various designs and channels that insurance distributors may use to inform their customers;	(a) the presentation and format of the digital disclosures, considering the various designs and channels that insurance distributors may use to inform their customers;
III-204	(b) the necessary safeguards to ensure ease of navigability and accessibility of the information, regardless of the device used by the customer;	(b) the necessary safeguards to ensure ease of navigability and accessibility of the information, regardless of the device used by the customer;
III-205	(c) the necessary safeguards to ensure easy retrievability of the information and facilitate the storing of	(c) the necessary safeguards to ensure easy retrievability of the information and facilitate the storing of information by customers in a durable medium.

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	information by customers in a durable medium.’;	
III-205a		<p><u>5. Where the insurance contract is concluded using a means of distance communication which prevents the prior delivery of the information in good time before the conclusion of the contract on a durable medium in accordance with paragraph 1 to 4, the insurance distributor may provide the information without undue delay after the conclusion of the contract, provided all of the following conditions are met:</u></p>
III-205b		<p><u>(a) the customer has consented to receiving the information without undue delay after the conclusion of the contract;</u></p>
III-205c		<p><u>(b) the insurance distributor has given the customer the option of delaying the conclusion of the contract until the customer has received the information.</u></p>

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III-205d		<u>In such case, the insurance distributor shall provide at least the following information through the means of distance communication used, prior to the conclusion of the contract:</u>
III-205e		<u>(a) the name of the insurance distributor, and where the insurance contract is proposed by an insurance intermediary, the name of the insurance undertaking;</u>
III-205f		<u>(b) a description of the main characteristics of the insurance product, including information about the type of insurance, a summary of the insurance cover and main exclusions and the main risks of the product;</u>
III-205g		<u>(c) information on the total price, including information on the premium, costs and charges;</u>
III-205h		<u>(d) whether the insurance distributor provides advice about the proposed</u>

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		<u>insurance contract;</u>
III-205i		<u>(e) the existence or absence of a right of withdrawal and, where a right of withdrawal exists, information on the withdrawal period and the conditions for exercising that right, including information on the amount which the customer may be required to pay, as well as the consequences of non-exercise of that right.</u>
III-205j		<u>As regards compliance with the requirements laid down in this paragraph, the burden of proof shall be on the insurance distributor.’;</u>
III-206	(40) Article 25 is replaced by the following:	(16 40) Article 25 is replaced by the following:
III-207	‘Article 25	‘Article 25
III-208	Product oversight and governance requirements	Product oversight and governance requirements
III-209	1. The home Member State of the manufacturer shall require that	1. The home Member State of the manufacturer shall require that insurance

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	insurance undertakings and intermediaries which manufacture any insurance product for sale to customers, establish, maintain, operate and review a process for the approval of each insurance product and for significant adaptations of existing insurance products, before they are marketed or distributed to customers ('the product approval process').	undertakings and <u>insurance</u> intermediaries which manufacture any insurance product for sale to customers, establish, maintain, operate and review a process for the approval of each insurance product and for significant adaptations of existing insurance products, before they are marketed or distributed to customers ('the product approval process').
III-210	The product approval process shall be proportionate and appropriate to the nature of the insurance product. The product approval process shall contain all of the following:	The product approval process shall be proportionate and appropriate to the nature of the insurance product. The product approval process shall contain all of the following:
III-211	(a) a specification of an identified target market for each insurance product;	(a) a specification of an identified target market for each insurance product <u>and of the intended distribution strategy;</u>
III-212	(b) a clear identification of target market's objectives and needs;	(b) a clear identification of target market's objectives and needs;

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III-213	(c) an assessment of whether the insurance product is designed appropriately to meet the target market's objectives and needs;	(c) an assessment of whether the insurance product is designed appropriately to meet the target market's objectives and needs;
III-214	(d) an assessment of all relevant risks to the identified target market and that the intended distribution strategy is consistent with the identified target market;	(d) an assessment of all relevant risks <u>relevant</u> to the identified target market <u>and arising from the distribution strategy</u> and <u>whether</u> that the intended distribution strategy is consistent with the identified target market;
III-215	(e) reasonable steps to ensure that the insurance product is distributed to the identified target market;	(e) reasonable steps to ensure that the insurance product is distributed to the identified target market;
III-216	(f) in relation to insurance-based investment products, a clear identification and quantification of all costs and charges related to the product and an assessment of whether these costs and charges are justified and proportionate, having regard to the characteristics, objectives, strategy and performance of the product, as well as	(f) in relation to insurance-based investment products, a clear identification and quantification of all costs and charges <u>and the performance</u> related to the product, <u>a clear identification and, where possible, quantification of its other benefits</u> and an assessment of whether <u>the product offers value for money, by evaluating whether</u> these costs and charges are justified and

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	the guarantees and insurance coverage of biometric and other risks (pricing process);	proportionate, having regard to the <u>performance, the other benefits and the characteristics, objectives, and strategy and performance</u> of the product, as well as the guarantees and insurance coverage of biometric and other risks (<u>value-for-money assessment pricing</u> process);
III-217	(g) in relation to insurance-based investment products, an assessment of the risk of misunderstanding of the main features, costs and risks of the insurance-based investment product by the customers belonging to the target market.	(g) in relation to insurance-based investment products, an assessment of the risk of misunderstanding of the main features, costs and risks of the insurance-based investment product by the customers belonging to the target market.
III-218	The pricing process referred to in point (f) shall contain a comparison with the relevant benchmark, where available, on costs and performance published by EIOPA in accordance with paragraph 8.	The <u>assessment that the insurance-based investment product can be expected to offer value-for-money pricing process</u> referred to in point (f) shall, <u>when it relates to insurance-based investment products intended for distribution to retail clients as defined in Article 4(1), point (11) of</u>

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		<p><u>Directive 2014/65/EU, be established through appropriate testing and assessments, taking into account the specificities of the insurance-based investment product including, a market comparison with similar insurance-based investment products in the Union, subject to data availability, by comparing costs and charges as well as performance of the product to the costs and charges and the performance of a peer-group consisting of other insurance-based investment products with similar characteristics including, where relevant, the product type, similar levels of risk, guarantees, strategy, objectives, range of recommended holding periods, sustainability features, premium frequency and biometric risk coverage. The compliance report to the management body shall systematically include information on product testing and assessments.</u></p>

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III-218a		<p><u>The peer-group comparison shall be performed using data made available according to paragraph 8a and included in information to be published according to Union law.</u></p>
III-218b		<p><u>When the insurance-based investment product is at a significant distance from the average of the peer group to the detriment of the client, the value for money shall be substantiated through additional testing and further assessments. Where necessary, the manufacturer shall take appropriate actions to ensure value for money. The content of appropriate actions shall be determined by the manufacturer while taking into account the relevant features of the insurance-based investment product and the interest of the client. The compliance report to the management body shall systematically include information on</u></p>

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		<u>these additional testings and further assessments and their conclusions, including on any actions to ensure value for money.</u>
III-218c		<u>The peer-group comparison, including the selection of insurance-based investment products with similar characteristics, shall be based on relevant and objective criteria.</u>
III-219	2. When an insurance-based investment product which deviates from the relevant benchmark referred to in paragraph 8, the manufacturer shall perform additional testing and further assessments and establish whether costs and charges are nevertheless justified and proportionate. If justification and proportionality of costs and charges cannot be demonstrated, the insurance-based investment product shall not be approved by the manufacturer. Where	2. When an insurance-based investment product which deviates from the relevant benchmark referred to in paragraph 8, the manufacturer shall perform additional testing and further assessments and establish whether costs and charges are nevertheless justified and proportionate. If justification and proportionality of costs and charges cannot be demonstrated, the insurance-based investment product shall not be approved by the manufacturer. Where no relevant benchmark exists for an

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	<p>no relevant benchmark exists for an insurance-based investment product, a manufacturer shall approve the product only if it has established through product testing and assessments that the costs and charges are justified and proportionate and that the product meets the target market's objectives and needs.</p>	<p>insurance-based investment product, a manufacturer shall approve the product only if it has established through product testing and assessments that the costs and charges are justified and proportionate and that the product meets the target market's objectives and needs. <u>The value-for-money assessment process of insurance-based investment products offering a range of underlying investment assets shall include an assessment of the value for money of the combination of the insurance-based investment contract and the underlying investment assets.</u></p>
III-219a		<p><u>Member States may provide for a possibility for insurance undertakings or insurance intermediaries manufacturing insurance-based investment products to opt, for the purpose of the market comparison in their value-for-money process, to compare an</u></p>

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		<p><u>insurance-based investment product with the relevant Union supervisory benchmark as referred to in paragraph 8 instead of a peer group.</u></p>
III-219b		<p><u>If the insurance undertaking or insurance intermediary opted to compare an insurance-based investment product with the relevant Union benchmark, the insurance undertaking or the insurance intermediary shall, when the insurance-based investment product falls outside the Union supervisory benchmark, substantiate the value for money through additional testing and further assessments. Where necessary, the manufacturer shall take appropriate actions to ensure value for money. The content of appropriate actions shall be determined by the manufacturer while taking into account the relevant features of the insurance-based investment product and the interest of the client. The</u></p>

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		<p><u>compliance report to the management body shall systematically include information on these additional testings and further assessments and their conclusions, including on any actions to ensure value for money.</u></p>
III-220	<p>3. Insurance undertakings and intermediaries which manufacture insurance products, shall understand and regularly review the insurance products they offer, taking into account any event or risk that could materially affect the identified target market, and assess whether the product remains consistent with the objectives and needs of the identified target market and whether the intended distribution strategy remains appropriate.</p>	<p>3. Insurance undertakings and <u>insurance</u> intermediaries which manufacture insurance products, shall understand and regularly review the insurance products they offer, taking into account any event or risk that could materially affect the identified target market, and assess whether the product remains consistent with the objectives and needs of the identified target market and whether the intended distribution strategy remains appropriate.</p>
III-221	<p>Insurance undertakings and intermediaries which manufacture insurance products, shall make available</p>	<p>Insurance undertakings and <u>insurance</u> intermediaries which manufacture insurance products, shall make available to distributors</p>

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	<p>to distributors all information on the insurance product and the product approval process that is needed to fully understand that product and the elements taken into consideration during the product approval process, including complete and accurate details on any costs and charges of the insurance product.</p>	<p>all information on the insurance product and the product approval process that is needed to fully understand that product and the elements taken into consideration during the product approval process, including complete and accurate details <u>on the value-for-money assessment of the insurance product.</u></p>
III-222	<p>In the case of insurance-based investment products, the information made available to distributors shall contain all the elements referred to in paragraph 1, third subparagraph, points (f) and (g), any further relevant data and an explanation showing that costs and charges are justified and proportionate and that the product meets the objectives and needs of the customers belonging to the target market.</p>	<p>In the case of insurance-based investment products, the information made available to distributors shall contain all the elements referred to in paragraph 1, third subparagraph, points (f) and (g), any further relevant data and an explanation showing that costs and charges are justified and proportionate and that the product <u>offers value for money and</u> meets the objectives and needs of the customers belonging to the target market.</p>

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III-223	4. Insurance undertakings and insurance intermediaries which manufacture insurance-based investment products shall report to their home authorities all of the following:	4. Insurance undertakings and insurance intermediaries which manufacture insurance-based investment products shall report to their home authorities all of the following:
III-224	(a) complete and accurate details of costs and charges of the insurance-based investment product, including distribution costs incorporated into the costs of the product, inclusive of third-party payments;	(a) complete and accurate details of costs and charges of the insurance-based investment product, including distribution costs incorporated into the costs of the product, inclusive of third-party payments <u>inducements</u> ;
III-225	(b) data on the characteristics of the insurance-based investment product, in particular its performance and level of risk.	(b) data on the characteristics of the insurance-based investment product, in particular its performance, and level of risk <u>and any additional benefits</u> .
III-225a		<u>(c) the Member State(s) where they distribute the insurance-based investment product.</u>
III-225b		<u>The data referred to in points (a), (b) and (c) shall only be reported when it is not yet included in a sufficiently detailed and</u>

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		<p><u>standardized form in the key information document in accordance with Regulation (EU) No 1286/2014 or in reporting obligations towards competent authorities on the basis of Union law, and when it is demonstrated that the specific data is necessary for the development of meaningful Union supervisory benchmarks or peer-group comparisons, and that the additional burden on manufacturers and distributors is not disproportionate to the added value for clients. The reporting of these data shall be further specified according to paragraph 10.</u></p>
III-226	The competent authorities shall transmit the data referred to in the first subparagraph data to EIOPA without undue delay.	The competent authorities shall transmit the data referred to in point (a), (b) and (c) the first subparagraph data to EIOPA, without undue delay
III-227	5. An insurance distributor that advises on or proposes insurance products which it does not manufacture,	5. An insurance distributor that advises on or proposes insurance products which it does not manufacture, shall have in place

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	shall have in place adequate arrangements to obtain the information referred to in paragraph 3, second subparagraph, and to understand the characteristics and identified target market of each insurance product.	adequate arrangements to obtain the information referred to in paragraph 3, second subparagraph, and to understand the characteristics and identified target market of each insurance product.
III-228	Insurance intermediaries or insurance undertakings distributing insurance-based investment products shall:	Insurance intermediaries or insurance undertakings distributing insurance-based investment products shall:
III-229	(a) make sure that they obtain and fully understand the information referred to in paragraph 3, third subparagraph;	(a) make sure that they obtain and fully understand the information referred to in paragraph 3, third subparagraph;
III-230	(b) identify and quantify any further costs and charges, in particular distribution costs, that are not already taken into account in the calculation of total costs and charges by the manufacturer;	(b) identify and quantify any further costs and charges, in particular distribution costs, that are not already taken into account in the calculation of total costs and charges by the manufacturer;
III-231	(c) assess whether the total costs and charges are justified and	(c) assess whether the <u>product meets total costs and charges are justified and</u>

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	<p>proportionate, having regard to the target market’s objectives and needs (pricing process).</p>	<p>proportionate, having regard to the costs and charges, the performance, the other benefits and the characteristics, objectives and strategy of the product and the target market’s objectives and needs <u>(pricing process)</u>.</p>
III-232	<p>The pricing process referred to in point (c) shall include, where available, a comparison with the relevant benchmark on costs and performance published by EIOPA in accordance with paragraph 8.</p>	<p>The pricing process referred to in point (c) shall include, where available, a comparison with the relevant benchmark on costs and performance published by EIOPA in accordance with paragraph 8.</p>
III-233	<p>The distributor shall provide the insurance undertaking or insurance intermediary manufacturing the insurance-based investment product regularly with all relevant information about the results of its pricing process. Where the distributor finds that there are costs and charges, in particular distribution costs, that have not been</p>	<p>The distributor shall provide the insurance undertaking or insurance intermediary manufacturing the insurance-based investment product regularly with all relevant information about the results of its pricing process. Where the distributor finds that there are costs and charges, in particular distribution costs, that have not been fully taken into account in the manufacturer’s</p>

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	<p>fully taken into account in the manufacturer’s pricing process, it shall immediately inform the manufacturer.</p>	<p>value-for-money assessment pricing process, it shall immediately inform the manufacturer. <u>The manufacturer shall take these costs and charges into account in its value-for-money assessment process.</u></p>
III-234	<p>6. When an insurance-based investment product deviates from the relevant benchmark referred to in paragraph 8, the insurance intermediary or insurance undertaking distributing insurance-based investment products shall perform additional testing and further assessments and establish whether costs and charges are nevertheless justified and proportionate. If justification and proportionality of costs and charges cannot be demonstrated, the insurance intermediary or insurance undertaking shall not advise on or propose the insurance-based investment product to</p>	<p>6. When an insurance-based investment product deviates from the relevant benchmark referred to in paragraph 8, the insurance intermediary or insurance undertaking distributing insurance-based investment products shall perform additional testing and further assessments and establish whether costs and charges are nevertheless justified and proportionate. If justification and proportionality of costs and charges cannot be demonstrated, the insurance intermediary or insurance undertaking shall not advise on or propose the insurance-based investment product to retail customers. Where no relevant</p>

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	<p>retail customers. Where no relevant benchmark exists for an insurance-based investment product, distributors shall only advise on or propose the product, if they have established through product testing and assessments that the costs and charges are justified and proportionate and that the product meets the target market's objectives and needs.</p>	<p>benchmark exists for an insurance-based investment product, distributors shall only advise on or propose the product, if they have established through product testing and assessments that the costs and charges are justified and proportionate and that the product meets the target market's objectives and needs.</p>
III-235	<p>7. An insurance intermediary or insurance undertaking which manufactures or distributes insurance-based investment products shall document all assessments made, including the following:</p>	<p>7. An insurance intermediary or insurance undertaking which manufactures or distributes <u>distributes</u> insurance-based investment products shall document <u>the product testing and</u> all assessments made, including the following:</p>
III-236	<p>(a) where relevant, the results of the comparison of the insurance-based investment product to the relevant benchmarks,</p>	<p>(a)where relevant, the dataset and the criteria used to select the peer group and <u>the results of the comparison of the insurance-based investment product to the peer group relevant benchmarks, or, where the</u></p>

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		<u>insurance intermediary or insurance undertaking has opted to compare the insurance-based investment product with the Union supervisory benchmark, the results of that comparison;</u>
III-237	(b) where applicable, the reasons justifying a deviation from the benchmark	(b) where applicable, the reasons justifying <u>that the insurance-based investment product offers value for money when it is at a significant distance from the average of the peer group to the detriment of the client or, where the insurance intermediary or insurance undertaking has opted to compare the insurance-based investment product with the Union supervisory benchmark, when it falls outside the Union supervisory,</u> a deviation from the benchmark
III-238	(c) justification and demonstration of the proportionality of costs and charges of the insurance-based investment product.	e) justification and demonstration of the proportionality of costs and charges of the insurance-based investment product.

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		<p><u>(c) where applicable, the reasons why the data for the peer-group comparison is not available for the financial instrument and how the value for money has been assessed.</u></p>
III-239	<p>8. EIOPA, after having consulted ESMA and the competent authorities, shall, where appropriate, develop and make publicly available common benchmarks for insurance-based investment products that present similar levels of performance, risk, strategy, objectives, or other characteristics to help insurance undertakings and insurance intermediaries manufacturing or distributing insurance-based investment products to perform the comparative assessment of the cost and performance of insurance-based investment products.</p>	<p><u>8. After having consulted In consultation with ESMA and relevant stakeholders and in close and thorough cooperation with and the competent authorities throughout the entire development and testing process, EIOPA shall, where appropriate and feasible, develop and make publicly available Union supervisory benchmarks. Those benchmarks shall be developed per product cluster that contains a significant number of insurance-based investment products including, where applicable, underlying investment assets, that present similar characteristics including, where relevant, similar levels of risk, guarantee, strategy, objectives, range of recommended holding periods, early terminations in</u></p>

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		<p><u>particular with regard to long recommended holding periods, sustainability features, premium frequency and biometric risk coverage. Union supervisory benchmarks shall only be made public and be applicable after a test demonstrating their relevance. The publication shall include the methodology and shall state the indicative nature of the benchmarks and their purpose as a supervisory tool. The purpose of those benchmarks shall be to provide competent authorities with a reference point for the supervision of the value-for-money of insurance-based investment products, by identifying outliers in the market.</u></p> <p>. EIOPA, after having consulted ESMA and the competent authorities, shall, where appropriate, develop and make publicly available common benchmarks for</p>

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		<p>insurance-based investment products that present similar levels of performance, risk, strategy, objectives, or other characteristics to help insurance undertakings and insurance intermediaries manufacturing or distributing insurance-based investment products to perform the comparative assessment of the cost and performance of insurance-based investment products.</p>
III-239a		<p><u>Competent authorities shall verify that the value-for-money assessment process of insurance companies or insurance intermediaries complies with the product governance requirements under paragraphs 1 to 4, 7 and 9.</u></p>
III-240	<p>The benchmarks shall display a range of costs and performance, in order to facilitate the identification of insurance-based investment products whose costs</p>	<p><u>Union supervisory benchmarks shall allow to identify insurance-based investment products including, where applicable, underlying investment assets, that are at a significant distance from the average of the</u></p>

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	and performance depart significantly from the average.	<p><u>cluster to the detriment of the client</u> (outliers) <u>with respect to costs and performance and thereby have an increased risk of poor value for money.;</u> The benchmarks shall display a range of costs and performance, in order to facilitate the identification of insurance-based investment products whose costs and performance depart significantly from the average.</p>
III-241	<p>The costs used for the development of benchmarks shall, in addition to the total product cost, also include all costs of distribution, inclusive inducements. They shall allow comparison with individual cost components.</p>	<p>The costs used for the development of benchmarks shall, in addition to the total product cost, also include all costs of distribution, inclusive inducements. They shall allow comparison with individual cost components. <u>The costs used for the development of Union supervisory benchmarks shall, in addition to the total product cost, also include all costs of distribution, including inducements. They</u></p>

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		<u>shall allow comparison with individual cost components.</u>
III-242	EIOPA shall regularly update those benchmarks.	<u>EIOPA shall regularly update the Union supervisory benchmarks. EIOPA shall regularly update those benchmarks.</u>
III-242a		<u>8a. Taking into account the methodology to perform the value-for-money assessment process peer-group comparison as referred to in paragraph 9, EIOPA shall make available data for the purpose of the peer-group comparison. Where appropriate, data that is not publicly available shall be anonymised or aggregated. EIOPA shall regularly review the data.</u>
III-242b		<u>The data shall be sourced from disclosure and reporting under Union law, including the reporting referred to in paragraph 10.</u>
III-242c		<u>EIOPA shall provide access to the data on a non-discriminatory basis to manufacturers and distributors. EIOPA may charge fees to</u>

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		<p><u>manufacturers and distributors for this service that shall not exceed direct costs incurred by EIOPA for the provision of this service. The fee structure shall, to the greatest extent possible, be proportionate to the volumes of data provided by each user. EIOPA shall provide access to this data to the following entities, to the extent necessary to fulfill their respective responsibilities, mandates and obligations:</u></p>
III-242d		<p><u>(a) any Union institution, body, office or agency;</u></p>
III-242e		<p><u>(b) any competent authority designated by a Member State pursuant to a Union legislative act;</u></p>
III-242f		<p><u>(c) any member of the European Statistical System as defined in Article 4 of Regulation (EC) No 223/2009 of the European Parliament and of the Council;</u></p>

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III-242g		<u>(d) any governmental institution, body or agency of a Member State;</u>
III-242h		<u>(e) any educational and training establishment for the sole purpose of research, academia, news organisations and non-governmental organisations insofar as access to the information is necessary in the performance of their tasks.</u>
III-242i		<u>The entities referred to in point (b) shall have unrestricted access to the data on a non-anonymous and non-aggregated basis, to the extent necessary to fulfill their mandates. EIOPA shall provide access to the data to the entities referred to in points (a) to (d) free of charge.</u>
III-242j		<u>After having consulted ESMA, the competent authorities and relevant stakeholders, EIOPA shall develop draft regulatory technical standards to specify the data that is to be made available, how it</u>

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		<u>is to be made available, the modalities of access and the fee structure.</u>
III-242k		<u>EIOPA shall submit those draft regulatory technical standards to the Commission by [OJ: insert date of entry into force of the amending Directive + 24 months].</u>
III-242l		<u>Power is conferred on the Commission to adopt those regulatory technical standards in accordance with Article 10 of Regulation (EU) No 1094/2010.</u>
III-242m		<u>EIOPA shall publish and make easily accessible on its website the fee structure and the rates. EIOPA shall review the fee structure and the rates on an annual basis.</u>
III-242n		<u>8b. In Member States where competent authorities have developed national benchmarks on costs and performance to detect outliers before 1 July 2024 competent authorities may decide to continue to use these national benchmarks in relation to</u>

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		<u>insurance-based investment products, including, where applicable, underlying options, that refer to specificities of products only distributed in their Member State provided that:</u>
III-242o		<u>(a) the methodology for the national benchmark is comparable with the methodology for the Union supervisory benchmark and any differences between the methodology for the national benchmark and the methodology for the Union supervisory benchmark are limited to differences that are needed to appropriately take into account national specificities specifically related to the insurance-based investment products with a view to protecting clients;</u>
III-242p		<u>(b) the competent authorities substantiate to EIOPA which are those national specificities, why the national</u>

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		<u>benchmarks are needed for the protection of clients and why the Union supervisory benchmarks are not appropriate;</u>
III-242q		<u>(c) the differences in methodologies do not increase over time, except when needed to take into account national specificities with a view to protecting clients; and</u>
III-242r		<u>(d) the competent authorities shall assess periodically whether the methodological differences are still needed to protect clients due to national specificities and shall report to EIOPA.; and</u>
III-242ra		<u>(e) the national benchmark is made public.</u>
III-242s		<u>8ba. Member States whose competent authorities continue to use national benchmarks shall notify the Commission and EIOPA of it within six months of the publication of the relevant Union</u>

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		<u>supervisory benchmark and its methodology.</u>
III-242t		<u>By [date of application of this amending Directive referred to in Article 6(2)], EIOPA, after having consulted ESMA, competent authorities and other stakeholders, may issue guidelines on the methodology to be used for such benchmarks.</u>
III-242u		<u>8c. By [OJ: insert date of application of this amending Directive referred to in Article 6(2) + 5 years], the competent authorities shall report to EIOPA on:</u>
III-242v		<u>(a) the impact and the added value of the peer-group comparison on the value for money of insurance-based investment products;</u>
III-242w		<u>(b) the impact and the added value of Union supervisory benchmarks and benchmarks as referred to in paragraph 8b on the</u>

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		<u>supervision of the value-for-money assessment process;</u>
III-242x		<u>(c) the application of Union supervisory benchmarks in the value-for-money assessment process of insurance undertakings and insurance intermediaries; and</u>
III-242y		<u>(d) whether and how any national specific issues have been or should be taken into account in order for all clients within the Union to be fairly and sufficiently protected, including concrete proposals how this should be done.</u>
III-242z		<u>By [OJ: insert date of application of this amending Directive referred to in Article 6(2) + 6 years], EIOPA shall submit to the Commission a report analysing:</u>
III-242za		<u>(a) the impact and the added value of the peer-group comparison and of the Union supervisory benchmarks on the value for</u>

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		<u>money of insurance-based investment products and on the supervision of the value-for-money assessment process, including the need to revise the framework;</u>
III-242zb		<u>(b) the application of Union supervisory benchmarks in the value-for-money assessment process of insurance-based insurance products;</u>
III-242zc		<u>(c) whether and how any national specific issues have been or should be taken into account in order for all clients within the Union to be fairly and sufficiently protected; and</u>
III-242zd		<u>(d) whether and how to modify the approach to the data that is made available in accordance with paragraph 8a.</u>
III-242ze		<u>When drafting the report, EIOPA shall coordinate with ESMA.</u>

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III-242zf		<p><u>By [OJ insert date of application of this amending Directive referred to in Article 6(2) + 7 years], the Commission shall submit a report to the Council and the European Parliament presenting the conclusions of the review. If appropriate, the report shall be accompanied by legislative proposals.</u></p>
III-243	<p>9. The Commission shall be empowered to supplement this Directive by adopting delegated acts in accordance with Article 38 to further specify the principles set out in this Article, including, with regard to insurance-based investment products,</p>	<p>9. The Commission shall be empowered to supplement this Directive by adopting delegated acts in accordance with Article 38 to further specify the principles set out in this Article, including, with regard to insurance-based investment products, <u>the methodology to be used by insurance undertakings and insurance intermediaries to perform the peer-group comparison.</u></p>
III-244	<p>(a) the methodology to be used by EIOPA to develop the benchmarks referred to in paragraph 8;</p>	<p><u>(a) the methodology to be used by insurance undertakings and insurance intermediaries to perform the value-for-money assessment process, including the peer group</u></p>

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		comparison. EIOPA to develop the benchmarks referred to in paragraph 8;
III-245	(b) the criteria to determine whether costs and charges are justified and proportionate;	(b) the criteria to determine whether costs and charges are justified and proportionate;
III-246	Those delegated acts shall take into account in a proportionate way the activities performed, the nature of the insurance products sold and the nature of the distributor.	Those delegated acts shall take into account in a proportionate way the activities performed, the nature of the insurance products sold and the nature of the distributor.
III-247	10. EIOPA, after having consulted ESMA and the competent authorities and after industry testing, and taking into consideration the methodology referred to in paragraph 9, point (a), shall develop draft regulatory technical standards to determine the following:	10. EIOPA, after having consulted ESMA and the competent authorities and after industry testing, <u>and taking into consideration the methodologies referred to in paragraph 8 and 9</u> and taking into consideration the methodology referred to in paragraph 9, point (a) , shall develop draft regulatory technical standards to determine the following
III-248	(a) content and type of data to be reported to the home authorities in accordance with paragraph 4, based on	(a) content and type of data to be reported to the home authorities in accordance with paragraph 4, <u>based on disclosure and</u>

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	disclosure and reporting obligations, unless additional data is exceptionally necessary;	reporting obligations, unless additional data is exceptionally necessary;
III-249	(b) the data standards and formats, methods and arrangements, frequency and starting date for the information to be reported in accordance with paragraph 4.	(b) the data standards and formats, methods and arrangements, frequency and starting date for the information to be reported in accordance with paragraph 4.
III-250	EIOPA shall submit those draft regulatory technical standards to the Commission by [9 months after the adoption of the delegated act referred to in paragraph 2].	EIOPA shall submit those draft regulatory technical standards to the Commission by [<u>OJ: insert date of entry into force of the amending Directive + 24 months</u> 9 months after the adoption of the delegated act referred to in paragraph 2].
III-250a		<u>When developing the draft regulatory technical standards, EIOPA shall only include specific data when it is not yet included in a sufficiently detailed and standardized form in the key information document in accordance with Regulation (EU) No 1286/2014 or in reporting</u>

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		<p><u>obligations towards competent authorities on the basis of Union law, and when it is demonstrated that the specific data is necessary for the development of meaningful benchmarks or peer-group comparisons, and that the additional burden on insurance undertakings or insurance intermediaries is not disproportionate to the added value for customers.</u></p>
III-250b		<p><u>EIOPA shall ensure that the reporting standards and formats, methods and arrangements and frequency remain proportionate and are aggregated to the extent feasible.</u></p>
III-251	<p>Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1094/2010.</p>	<p>Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1094/2010.</p>

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III-252	11. 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 third-party payments.	11. 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 third-party payments <u>inducements</u> .
III-253	12. This Article shall not apply to insurance products which consist of the insurance of large risks.’;	12. This Article shall not apply to insurance products which consist of the insurance of large risks.’;
III-254	(41) Article 26 is replaced by the following:	(17 41) Article 26 is replaced by the following:
III-255	‘Article 26	‘Article 26
III-256	Scope of additional requirements	Scope of additional requirements
III-257	‘This Chapter establishes requirements additional to those applicable to insurance distribution, where the insurance distribution is carried out in	‘This Chapter establishes requirements additional to those applicable to insurance distribution, where the insurance distribution is carried out in relation to the sale of insurance-based investment products.

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	relation to the sale of insurance-based investment products.	
III-258	Insurance-based investment products may only be distributed by:	Insurance-based investment products may only be distributed by:
III-259	(a) an insurance intermediary;	(a) an insurance intermediary;
III-260	(b) an insurance undertaking.’;	(b) an insurance undertaking.’;
III-261	(42) the following Article 26a is inserted:	(18 42) the following Article 26a is inserted:
III-262	‘Article 26a	‘Article 26a
III-263	Marketing communications and practices	Marketing communications and practices
III-264	1. By derogation from Article 17(2), Member States shall ensure that marketing communications of insurance-based investment products are clearly identifiable as such and clearly identify the insurance intermediary or insurance undertaking responsible for their content and distribution, regardless of whether the communication is made directly or	1. By derogation from Article 17(2), Member States shall ensure that marketing communications of insurance-based investment products are clearly identifiable as such and clearly identify the insurance intermediary or insurance undertaking responsible for their content and distribution, regardless of whether the communication is made directly or indirectly by the insurance intermediary or insurance undertaking.

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	indirectly by the insurance intermediary or insurance undertaking.	
III-265	2. Member States shall ensure that marketing communications of insurance-based investment products are developed, designed and provided in a manner that is fair, clear, not misleading, balanced in terms of presentation of benefits and risks, and appropriate in terms of content and distribution channels for the target audience and where related to a specific insurance-based investment product to the target market identified pursuant to Article 25(1).	2. Member States shall ensure that marketing communications of insurance-based investment products are developed, designed and provided in a manner that is fair, clear, not misleading, balanced in terms of presentation of benefits and risks, and appropriate in terms of content and distribution channels for the target audience and where related to a specific insurance-based investment product to the target market identified pursuant to Article 25(1).
III-266	All marketing communications of insurance-based investment products shall present, in a prominent and concise way, the essential characteristics of the insurance-based investment products to which they refer.	All marketing communications of insurance-based investment products shall present, in a prominent and concise way, the essential characteristics of the insurance-based investment products to which they refer.

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III-267	The presentation of the essential characteristics of marketing communications of insurance-based investment products shall ensure that retail investors can easily understand the key features of the insurance-based investment product as well as the main risks associated with them.	The presentation of the essential characteristics of marketing communications of insurance-based investment products shall ensure that retail investors <u>customers</u> can easily understand the key features of the insurance-based investment product as well as the main risks associated with them.
III-268	3. Member States shall ensure that marketing practices are developed and used in a manner that is fair and not misleading, and shall be appropriate for the target audience.	3. Member States shall ensure that marketing practices are developed and used in a manner that is fair, <u>clear</u> and not misleading, and shall be appropriate for the target audience <u>based on the target market assessment and the distribution strategy of the product in the context of the product oversight and governance requirements</u>
III-269	4. Where a manufacturer of an insurance-based investment product prepares and provides a marketing communication to be used by a distributor, the manufacturer shall be	4. Where a manufacturer of an insurance-based investment product prepares and provides a marketing communication to be used by a distributor, the manufacturer shall be responsible for the content of such marketing

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	responsible for the content of such marketing communication and its update. The distributor shall be responsible for the use of this marketing communication and shall ensure that it is used for the identified target market only and in line with the distribution strategy identified for that target market.	communication and its update. The distributor shall be responsible for the use of this marketing communication and shall ensure that it is used for the identified target market only and in line with the distribution strategy identified for that target market.
III-270	Where an insurance undertaking or an insurance intermediary that offers or recommends insurance-based investment products which it does not manufacture, organises its own marketing communication, it shall be fully responsible for its appropriate content, update and use, in line with the identified target market.	Where an insurance undertaking or an insurance intermediary that offers or recommends insurance-based investment products which it does not manufacture, organises its own marketing communication, it shall be fully responsible for its appropriate content, update and use, in line with the identified target market.
III-271	5. Member States shall ensure that insurance undertakings and insurance intermediaries make annual reports to their management body on the use of	5. Member States shall ensure that insurance undertakings and insurance intermediaries make annual reports to their management body on the use of marketing

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	marketing communications and strategies aimed at marketing practices, the compliance with relevant obligations on marketing communications and practices under this Directive and on any signalled irregularities and proposed solutions.	communications and strategies aimed at marketing practices, the compliance with relevant obligations on marketing communications and practices under this Directive and on any signalled irregularities and proposed solutions.
III-272	6. Member States shall ensure that national competent authorities can take timely and effective action in relation to any marketing communication or marketing practice that do not comply with the requirements laid down in paragraphs 1 to 3.	6. Member States shall ensure that national competent authorities can take timely and effective action in relation to any marketing communication or marketing practice that do not comply with the requirements laid down in paragraphs 1 to 3.
III-273	7. Member States shall ensure that insurance undertakings and insurance intermediaries keep records of all their marketing communications of insurance-based investment products, or their marketing communications made by any third party remunerated or	7. Member States shall ensure that insurance undertakings and insurance intermediaries keep records of all their marketing communications of insurance-based investment products, or their marketing communications made by any third party

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	incentivised through non-monetary compensation.	remunerated or incentivised through non-monetary compensation.
III-274	Such records shall be kept for a period of five years and, where requested by the competent authority, for a period of up to seven years. Those records shall be retrievable by the insurance undertaking or insurance distributor upon request by the competent authority.	Such records shall be kept for a period of five years and, where requested by the competent authority, for a period of up to seven years. Those records shall be retrievable by the insurance undertaking or insurance distributor <u>intermediary</u> upon request by the competent authority.
III-275	The records referred to in the first subparagraph shall contain all of the following:	The records referred to in the first subparagraph shall contain all of the following:
III-276	(a) the content of the marketing communication;	(a) the content of the marketing communication;
III-277	(b) details about the medium used for the marketing communication;	(b) details about the medium used for the marketing communication;
III-278	(c) the date and duration of the marketing communication, including relevant starting and end times;	(c) the date and duration of the marketing communication. including relevant starting and end times;

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III-279	(d) the targeted customer segments or profiling determinants;	(d) the targeted customer segments or profiling determinants;
III-280	(e) the Member States where the marketing communication was made available;	(e) the Member States where the marketing communication was made available;
III-281	(f) the identity of any third party involved in the dissemination of the marketing communication.	(f) the identity of any third party involved in the dissemination of the marketing communication.
III-282	Records of such identity referred to in point (f) shall contain the legal names, registered addresses, contact details and, where relevant, social media handle of the natural or legal persons involved.	Records of such identity referred to in point (f) shall contain the legal names, registered addresses, contact details and, where relevant, social media handle of the natural or legal persons involved.
III-283	8. The Commission shall be empowered to adopt a delegated act in accordance with Article 38 to supplement this Directive by specifying:	8. The Commission shall be empowered to adopt a delegated act in accordance with Article 38 to supplement this Directive by specifying:
III-284	(a) the essential characteristics of insurance-based investment products to be disclosed in all marketing communications targeting retail	(a) the essential characteristics of insurance-based investment products to be disclosed in all marketing communications targeting retail customers or potential retail customers and

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	<p>customers or potential retail customers and any other relevant criteria to ensure that those essential characteristics appear in a prominent way and are easily accessible by an average retail customer, regardless of the means of communication;</p>	<p>any other relevant criteria to ensure that those essential characteristics appear in a prominent way and are easily accessible by an average retail customer, regardless of the means of communication</p>
III-285	<p>(b) the conditions with which marketing communications and marketing practices of insurance-based investment products should comply in order to be fair, clear, not misleading, balanced in terms of the presentation of the advantages and risks, and appropriate in terms of content and distribution channels for the target audience or, where applicable, the target market.’;</p>	<p>(b) the conditions with which marketing communications and marketing practices of insurance-based investment products should comply in order to be fair, clear, not misleading, balanced in terms of the presentation of the advantages and risks, and appropriate in terms of content and distribution—channels <u>media, including character- limited media and short form content</u> for the target audience or, where applicable, the target market <u>based on the target market assessment and the distribution strategy of the product in the</u></p>

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		<u>context of the product oversight and governance requirements.’;</u>
III-286	(43) in Article 28, paragraph 2 is replaced by the following:	(19 43) in Article 28, paragraph 2 is replaced by the following:
III-287	‘Where organisational or administrative arrangements made by the insurance intermediary or insurance undertaking in accordance with Article 27 to manage conflicts of interest are not sufficient to ensure, with reasonable confidence, that risks of damage to customer interests will be prevented, the insurance intermediary or insurance undertaking shall clearly disclose to the customer the general nature or sources of the conflicts of interest, in good time before	2. Where organisational or administrative arrangements made by the insurance intermediary or insurance undertaking in accordance with Article 27 to manage conflicts of interest are not sufficient to ensure, with reasonable confidence, that risks of damage to customer interests will be prevented, the insurance intermediary or insurance undertaking shall clearly disclose to the customer the general nature or sources of the conflicts of interest, in good time before the customer is bound by an insurance contract or offer.’;

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	the customer is bound by an insurance contract or offer.’;	
III-288	(44) Article 29 is replaced by the following:	(20 44) Article 29 is replaced by the following:
III-289	‘Article 29	‘Article 29
III-290	Information to customers and policyholders	Information to customers and policyholders
III-291	1. Without prejudice to Article 18 and Article 19(1) and (2), Member States shall ensure that insurance intermediaries and insurance undertakings distributing insurance-based investment products provide customers in good time before the customers are bound by an insurance contract or offer, with appropriate information in personalised form about the insurance-based investment products proposed to those customers. That information shall contain all of the following:	1. Without prejudice to Article 18 and Article 19(1) and (2), Member States shall ensure that insurance intermediaries and insurance undertakings distributing insurance-based investment products provide customers in good time before the customers they are bound by an insurance contract or offer, with appropriate information in personalised form about the insurance-based investment products proposed to those customers. That information shall contain at least all of the following:

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III-292	(a) where advice is provided;	(a) where advice is provided;
III-293	(i) whether or not the advice is provided on an independent basis;	(i) whether or not the advice is provided on an independent basis;
III-294	(ii) whether the advice is based on a broad or on a more restricted analysis of different types of insurance-based investment products and, where applicable, underlying investment assets, and in particular, whether or not the range is limited to products and assets manufactured or provided by entities having close links with the insurance intermediary or insurance undertaking, or any other legal or economic relationships, such as contractual relationships, so close as to pose a risk of impairing the independent basis of the advice provided;	(ii) whether the advice is based on a broad or on a more restricted analysis of different types of insurance-based investment products and, where applicable, underlying investment assets, and in particular, whether or not the range is limited to products and assets, manufactured or provided by entities having close links with the insurance intermediary or insurance undertaking, or any other legal or economic relationships, such as contractual relationships, so close as to pose a risk of impairing the independent basis of the advice provided;
III-295	(iii) whether the insurance intermediary or insurance undertaking will provide the customer with a periodic assessment	(iii) whether the insurance intermediary or insurance undertaking will provide the customer with a periodic assessment of the

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	of the suitability of the insurance-based investment product recommended to that customer;	suitability of the insurance-based investment product recommended to that customer;
III-296	(iv) where the insurance intermediary or insurance undertaking provides independent advice to a retail customer, whether the range of insurance-based investment products that are recommended is restricted or not to well-diversified, non-complex (as referred to in Article 30(3)) and cost-efficient insurance-based investment products only;	iv) where the insurance intermediary or <u>insurance</u> undertaking provides <u>independent</u> advice <u>on an independent basis</u> to a retail customer, whether the range of insurance-based investment products that are recommended is restricted or not to well-diversified, non-complex (as referred to in Article 30(<u>5c</u>)) and cost-efficient insurance-based investment products only
III-297	(v) how the recommended insurance-based investment products take into account the diversification of the customer's portfolio;	(v) how the recommended insurance-based investment products take into account the diversification of the customer's portfolio;
III-298	(b) a description of the main features of the proposed insurance-based investment product and, where applicable, any recommended	(b) a description of the main features of the proposed insurance-based investment product and, where applicable, any recommended underlying investment assets and investment

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	underlying investment assets and investment strategies, including appropriate guidance on, and warnings of, the risks associated with the insurance-based investment products and, where applicable, the recommended underlying investment assets or in respect of particular investment strategies followed by that product;	strategies; including appropriate guidance on, and warnings of, the risks associated with the insurance-based investment products and, where applicable, the recommended underlying investment assets or in respect of particular investment strategies followed by that product;
III-298a		<u>(ba) appropriate guidance on the risks associated with the insurance-based investment product and, where applicable, the recommended underlying investment assets or the particular investment strategies followed by that product, including, for particularly risky insurance-based investment products, the risk warnings mentioned in paragraph 5;</u>
III-299	(c) information on the proposed insurance cover, including details of the	(c) information on the proposed insurance cover, including details of the insurance

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	insurance benefits and options and the circumstances that would trigger them, and, where applicable, a summary of the excluded risks and exclusions, where claims cannot be made;	benefits and options and the circumstances that would trigger them, and, where applicable, a summary of the excluded risks and exclusions, where claims cannot be made;
III-300	(d) information on all explicit and implicit costs, associated charges and third-party payments, including all costs and charges relating to the distribution of the insurance-based investment product, and the cost of advice, where relevant, how the customer may pay for it and the duration of payments;	(d) information on all explicit and implicit costs, associated charges and third-party payments <u>inducements</u> , including all costs and charges relating to the distribution of the insurance-based investment product, and the cost of advice, where relevant, how the customer may pay for it and the duration of payments;
III-301	(e) the law applicable to the contract and the competent jurisdiction;	(e) the law applicable to the <u>insurance</u> contract; where the insurance undertaking proposes a choice of law, the law that the insurance undertaking proposes to choose. and the competent jurisdiction.
III-302	(f) general information on the tax rules applicable to the type of insurance-based investment product.	(f) general information on the tax rules applicable to the type of insurance-based investment product.

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III-302a		<u>(g)information on the right of cancellation pursuant to Article 186 of Directive 2009/138/EC, in particular details on the time-limitations and conditions for the exercise of that right.</u>
III-303	The information referred to in the first subparagraph, point (d), shall be accompanied by an appropriate explanation, in a standardised and comprehensible language for an average retail customer, on the impact of the costs, charges and any third-party payments on the expected return.	The information referred to in the first subparagraph, point (d), shall be accompanied by an appropriate explanation, in a standardised and comprehensible language for an average retail customer, on the impact of the costs, charges and any third-party payments inducements on the expected returns.
III-304	Member States shall ensure that insurance intermediaries and insurance undertakings present the information on all costs, charges and third-party payments referred to in the first subparagraph, point (d) in aggregated form to enable the customer to understand the overall cost and the	Member States shall ensure that insurance intermediaries and insurance undertakings present the information on all costs, charges and third-party payments inducements referred to in the first subparagraph, point (d) in aggregated form to enable the customer to understand the overall cost and the cumulative effect on the return of the investment. The

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	<p>cumulative effect on the return of the investment. The overall cost shall be expressed in monetary terms and percentages calculated over the term of the insurance-based investment product. Where the customer so requests, insurance intermediaries and insurance undertakings shall provide an itemised breakdown of that information.</p>	<p>overall cost shall be expressed in monetary terms and percentages calculated over the term of the insurance based investment product. Where the customer so requests, insurance intermediaries and insurance undertakings shall provide an itemised breakdown of that information.</p>
III-304a		<p><u>Insurance undertakings and insurance intermediaries shall inform their customers that they have the option of receiving an itemised breakdown of the cost data.</u></p>
III-305	<p>The third-party payments paid or received by the insurance intermediary or insurance undertaking in connection with the provision or distribution of the insurance-based investment product shall be itemised separately. The insurance intermediary or insurance undertaking shall disclose the</p>	<p><u>By way of derogation from the third subparagraph, the third-party payments inducements paid or received-accepted and retained by the insurance intermediary or insurance undertaking in <u>relation to connection with</u> the provision or distribution of the insurance-based investment product shall be itemised separately. The insurance</u></p>

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	<p>cumulative impact of such third-party payments, including any recurring third-party payments, on the net return over the term of the insurance-based investment product. The purpose of the third-party payments and their impact on the net return shall be explained in a standardised way and in a comprehensible language for an average retail customer.</p>	<p>intermediary or insurance undertaking shall disclose the cumulative impact of such third-party payments inducements, including any recurring third-party payments inducements on the net return over the term of the insurance-based investment product. The purpose of the third-party payments inducements and their impact on the net return shall be explained in a standardised way and in a comprehensible language for an average retail customer.</p>
III-305a		<p><u>Where the amount of any costs, charges or inducements cannot be ascertained at the pre-contractual stage, the method of calculating the amount shall be clearly disclosed to the customer in a manner that is transparent, comprehensible, accurate and understandable for an average customer.</u></p>
III-305b		<p><u>When paying or accepting and retaining inducements in relation to the provision or distribution of insurance-based investment</u></p>

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		<u>products, the insurance intermediary or insurance undertaking shall explicitly inform the customer on the existence of such inducements.</u>
III-306	2. Member States shall ensure that manufacturers of insurance-based investment products draw up a concise personalised document containing key information to be provided annually to each retail customer holding the product ('annual statement').	2. Member States shall ensure that manufacturers <u>insurance undertakings or, where applicable, insurance intermediaries manufacturing insurance-based investment products,</u> of insurance-based investment products draw up a concise personalised document containing key information to be provided annually to each retail customer <u>policyholder</u> holding the product <u>an insurance-based investment product</u> ('annual statement').
III-307	The exact date to which the information in the annual statement refers shall be stated prominently.	The exact date to which the information in the annual statement refers shall be stated prominently.
III-308	The information in the annual statement shall be accurate and up to date.	The information in the annual statement shall be accurate and up to date. <u>The annual</u>

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		<u>statement shall be provided to the policyholder as soon as possible and no later than [4] months after the end of the reporting period.</u>
III-309	Manufacturers shall make the annual statement available to each retail policyholder free of charge through electronic format. A paper copy shall be provided upon request in addition to any information available through electronic means.	Manufacturers shall provide make the annual statement available to each retail policyholder free of charge through electronic format. A paper copy shall be provided upon request free of charge in addition to any information available through electronic means.
III-310	The annual statement does not need to be provided where the manufacturer provides its retail policyholders with access to an online system, which qualifies as a durable medium, where up-to-date statements with the relevant information set out in paragraph 3 can be easily accessed and the manufacturer has evidence that the retail policyholder	<u>By way of derogation from Article 23 (1), (2) and (3), the</u> annual statement does not need to be provided where the manufacturer the <u>insurance undertaking or, where applicable, insurance intermediary manufacturing insurance-based investment products,</u> provides its retail policyholders with access to an online system, which qualifies as <u>an durable medium electronic</u>

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	has accessed those statements at least once during the previous 12 months.	<u>format</u> , where up-to-date statements with the relevant information set out in paragraph 3 can be easily accessed and the manufacturer <u>insurance undertaking or, where applicable, insurance intermediary manufacturing insurance-based investment products</u> , has evidence that the retail policyholder has accessed those statements at least once during the previous 12 months.
III-311	3. The annual statement shall include, at least, the following key information:	3. The annual statement shall include, at least, the following key information:
III-312	(a) the total costs associated charges and third-party payments, expressed in an itemised way in monetary terms and percentages, paid or borne, directly or indirectly, by the retail policyholder over the previous 12 months and on a compounded basis since the start of the contract term in connection with the insurance-based investment product;	(a) the total costs, associated charges and third-party payments <u>inducements</u> , expressed in an itemised way in monetary terms and percentages, paid or borne, directly or indirectly, by the retail policyholder over the previous 12 months and on a <u>cumulative compounded</u> basis since the start of the contract term in <u>relation to</u> connection with the insurance-based investment product. The <u>The</u>

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		<p><u>information on inducements paid or accepted and retained by the insurance intermediary or insurance undertaking in relation to the provision or distribution of the insurance-based investment product shall also disclose the cumulative impact of such inducements, including any recurring inducements, on the net return since the start of the contract term in relation to the insurance-based investment product;</u></p>
III-313	<p>(b) the annual performance of each of the underlying investment assets of the insurance-based investment product and the annual global performance of the portfolio, each compared with past performance over previous years:</p>	<p>(b) the annual performance of, <u>where applicable</u>, each of the underlying investment <u>assets of the insurance-based investment product held by the policyholder</u> and the annual global performance of the <u>policyholder's</u> portfolio, each compared with past performance, <u>where applicable, over of</u> previous years' <u>investment assets</u>;</p>
III-314	<p>(c) the total taxes including stamp duty, transactions tax, withholding tax and any other taxes where levied by the</p>	<p>(c) the total taxes including stamp duty, transactions tax, withholding tax and any other taxes where levied by the insurance</p>

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	insurance undertaking, with a split per tax, borne by the retail customer in connection with the insurance-based investment product;	undertaking, with a split per tax, borne by the retail customer <u>policyholder</u> in connection with <u>relation to</u> the insurance-based investment product;
III-315	(d) where applicable, the market or estimated value when the market value is not available of the underlying investment assets of the insurance-based investment product;	(d) where applicable, the market or estimated value when the market value is not available of <u>each of</u> the underlying investment assets <u>of the insurance-based investment product held by the policyholder;</u>
III-316	(e) payments made by the retail policyholder with regard to the insurance-based investment product including investments, deposits, contributions, premiums and fees, over the previous 12 months, deducting any withdrawals made;	(e) payments made by the retail policyholder with regard to the insurance-based investment product including investments, deposits, contributions, premiums and fees, over the previous 12 months, <u>after</u> deducting any withdrawals made. <u>The insurance undertaking shall inform the policyholder that fees charged directly by insurance intermediaries to the policyholder are not included in this annual statement;</u>

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III-317	(f) adjusted individual projections of the expected outcome at the end of the contractual or recommended holding period, based on the current value of the investment and its performance development so far and linked to the pre-contractual performance scenarios in the key information document provided for in Regulation No 1286/2014, and a disclaimer that those projections may differ from the actual final value of the investment;	(f) adjusted individual projections of the expected outcome at the end of the contractual or recommended holding period, based on the current value of the investment and its performance development so far and linked to the pre-contractual performance scenarios in the key information document provided for in Regulation No 1286/2014, and a disclaimer that those projections may differ from the actual final value of the investment;
III-318	(g) information on the conditions and financial consequences of an early termination of the investment or switching of providers, including the surrender value and conditions for surrendering the insurance policy;	(g) information on the conditions and financial consequences of an early termination of the investment or switching of providers, including the surrender value and conditions for surrendering the insurance policy;
III-319	(h) a short summary on the insurance cover, in particular the insurance benefits and any options and information	(h) a short summary on the insurance cover, in particular the insurance benefits and any options and information on what happens

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	on what happens when the insured person dies or another insured event occurs;	when the insured person dies or another insured event occurs;
III-320	(i) in the case of insurance-based investment products for which the policy terms and conditions provide for periodic premium reviews, the projected premiums required to maintain existing protection benefits until the ages of 55, 65, 75 and 85.	(i) in the case of insurance-based investment products for which the policy terms and conditions provide for periodic premium reviews, the projected premiums required to maintain existing protection benefits until the ages of 55, 65, 75 and 85.
III-320a		<u>(j) the nature of the insurance distribution activities undertaken by the insurance undertaking for the policyholder during the reporting period;</u>
III-320b		<u>(k) if costs for insurance distribution activities of an insurance intermediary are included in the annual report: the nature of the insurance distribution activities undertaken by the insurance intermediary for the policyholder during the reporting period.</u>

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III-321	4. The information described in paragraph 1 and the annual statement referred to in paragraphs 2 and 3 shall be provided to retail customers and policyholders by using a Union standardised terminology and format.	4. The information described in paragraph 1 and the annual statement referred to in paragraphs 2 and 3 shall be provided to retail customers and policyholders by using a Union standardised terminology and format.
III-322	EIOPA shall, after having consulted ESMA and after conducting consumer testing and industry testing, develop draft regulatory technical standards to specify:	EIOPA shall, after having consulted ESMA and after conducting consumer testing and industry testing, develop draft regulatory technical standards to specify:
III-323	(a) the relevant format for the provision of the information listed in paragraphs 1 and 3, including the form and the length of the document, and the content of each of the elements of information;	(a) the relevant format for the provision of the information listed in paragraphs 1 and 3, including the form and the length of the document, and the content of each of the elements of information;
III-324	(b) the Union standardised terminology and related explanations to be used for the provision of the	(b) the Union standardised terminology, <u>calculation method</u> and related explanations to be used for the provision of the information

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	information listed in paragraphs 1 and 3. The explanations shall ensure that they are likely to be understood by any retail customer without specific knowledge on insurance-based investment products;	listed in paragraphs 1 and 3, <u>including information on implicit costs.</u> The explanations shall ensure that they are likely to be understood by any retail customer without specific knowledge on insurance-based investment products
III-325	EIOPA shall submit those draft regulatory technical standards to the Commission by [OJ: insert date 18 months after the date of entry into force].	EIOPA shall submit those draft regulatory technical standards to the Commission by [OJ: insert date 18 months after the date of entry into force].
III-326	Power is conferred on the Commission to supplement this Directive by adopting the regulatory technical standards referred to in the third subparagraph in accordance with Article 10 of Regulation (EU) No 1094/2010.	Power is <u>delegated to</u> conferred on the Commission to supplement this Directive by adopting the regulatory technical standards referred to in the third subparagraph in accordance with Article 10 of Regulation (EU) No 1094/2010.
III-327	5. Member States shall ensure that insurance intermediaries and insurance undertakings distributing insurance-based investment products display	5. Member States shall ensure that insurance intermediaries and insurance undertakings distributing insurance-based investment products display appropriate warnings in

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	<p>appropriate warnings in information material, including marketing communications, provided to retail customers to alert them on the specific risks of potential losses carried by particularly risky insurance-based investment products and, where applicable, underlying investment assets.</p>	<p>information materials, including marketing communications, <u>concerning particularly risky insurance-based investment products</u> provided to retail customers to alert them on <u>highlight</u> the specific risks of potential losses carried by <u>associated with such particularly risky</u> insurance-based investment products and, where applicable underlying investment assets.</p>
III-328	<p>EIOPA shall, by [18 months after the entry into force of the amending Directive], develop, and update periodically, guidelines on the concept of particularly risky insurance-based investment products, taking due account of the specificities of the different types of insurance-based investment products.</p>	<p>EIOPA shall, by [18 months after the entry into force of the amending Directive], develop, and update periodically, guidelines on the concept of particularly risky insurance-based investment products, taking due account of the specificities of the different types of insurance-based investment products.</p>
III-329	<p>EIOPA shall develop regulatory technical standards to further specify</p>	<p>EIOPA shall develop regulatory technical standards to further specify the format and</p>

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	<p>the format and content of such risk warnings, taking due account of the specificities of the different types of insurance-based investment products and types of communications.</p>	<p>content of such risk warnings, taking due account of the specificities of the different types of insurance-based investment products and types of communications.</p> <p><u>EIOPA shall develop regulatory technical standards to further specify the concept of particularly risky insurance-based investment products and, after conducting consumer testing, the format and content of such the risk warnings mentioned in the previous subparagraph, taking due account of the specificities of the different types of insurance-based investment products.</u></p>
III-329a		<p><u>The specificities of the insurance-based investment products or, where applicable, the underlying investment assets may, in particular, relate to specific market risks, credit risks and or liquidity risks.</u></p>

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		<u>The format and content of the risk warnings shall take into account the different types of communication media.</u>
III-330	EIOPA shall submit those regulatory technical standards to the Commission by [OJ: insert date 18 months after the date of entry into force].	EIOPA shall submit those regulatory technical standards to the Commission by [OJ: insert date 18 months after the date of entry into force].
III-331	Power is delegated to the Commission to adopt the regulatory technical standards referred to in the third subparagraph in accordance with Article 10 of Regulation (EU) No 1094/2010.	Power is delegated to the Commission to adopt <u>those</u> regulatory technical standards referred to in the third subparagraph in accordance with Article 10 of Regulation (EU) No 1094/2010.
III-332	EIOPA shall monitor the consistent application of risk warnings throughout the Union. In case of concerns regarding the use, or absence of use or supervision of the use of such risk warnings in Member States, that may have a material impact on the investor protection, EIOPA, after having consulted the competent authorities	EIOPA shall monitor the consistent application of risk warnings throughout the Union. <u>In case of concerns regarding the use, or the absence of use or the supervision of the use of such risk warnings in one or more Member States, that may have a material impact on the investor protection, EIOPA, after having consulted the competent authorities concerned, may</u>

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	<p>concerned, may impose the use of risk warnings by insurance intermediaries and insurance undertakings distributing insurance-based investment products.’;</p>	<p>impose the use of risk warnings by insurance intermediaries and insurance undertakings distributing insurance-based investment products; shall issue a recommendation addressed to all competent authorities, to impose on insurance intermediaries and insurance undertakings distributing insurance-based investment products, the use of risk warnings <u>issue a recommendation addressed to the relevant competent authorities, to impose on insurance intermediaries and insurance undertakings the use of risk warnings for specific insurance-based investment products.’;</u> Where the use or absence of use, or supervision of the use, of such risk warnings is inconsistent across the EU, EIOPA may issue a recommendation in accordance with Article 16 of Regulation (EU) No 1094/2010 addressed to</p>

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		<p>some or all national competent authorities concerning the use of risk warnings.</p> <p>Where the use or absence of use, or supervision of the use, of such risk warnings is inconsistent across the EU, EIOPA may issue a recommendation in accordance with Article 16 of Regulation (EU) No 1094/2010 addressed to some or all national competent authorities concerning the use of risk warnings.</p> <p>EIOPA may also issue risk warnings in the event that a specific insurance-based investment product poses a serious threat to customer protection, in accordance with Article 9(3) of Regulation (EU) No 1094/2010.</p>
III-333	(45) the following Articles 29a and 29b are inserted:	(21 45) the following Articles 29a and 29b are inserted:
III-334	<i>'Article 29a</i>	<i>'Article 29a</i>

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III-335	Inducements	Inducements
III-336	<p>1. Member States shall ensure that insurance intermediaries or insurance undertakings that manufacture insurance-based investment products or distribute such products in accordance with Article 30(2) and (3) do not pay or receive any fee or commission, or provide or are provided with any non-monetary benefit with regard to the provision or distribution of an insurance based investment product, to or by any party except the customer or a person on behalf of the customer.</p>	<p>1. Member States shall ensure that insurance intermediaries or insurance undertakings that manufacture insurance-based investment products or distribute such products in accordance with Article 30(2) and (3) do not pay or receive any fee or commission, or provide or are provided with any non-monetary benefit with regard to the provision or distribution of an insurance based investment product, to or by any party except the customer or a person on behalf of the customer.</p> <p><u>Member States shall ensure that insurance intermediaries and insurance undertakings paying or receiving inducements comply with the following overarching principles:</u></p> <p><u>(a) Inducements do not provide an incentive to the insurance intermediary or insurance undertakings to offer or recommend a</u></p>

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		<p><u>particular insurance-based investment product or service to the customer;</u></p> <p><u>(b) The level of inducements paid or accepted and retained is proportional to the value of the insurance-based investment product and the level of service provided to the relevant customer;</u></p> <p><u>(c) Inducements paid to or accepted and retained by entities belonging to the same group are treated in the same way as inducements paid to or accepted and retained from other entities.</u></p> <p><u>(d) Inducements accepted and retained do not directly benefit the insurance intermediary or insurance undertaking, and where relevant, its shareholders or employees without tangible benefit to the customer.</u></p> <p><u>Insurance intermediaries and insurance undertakings shall explain in their</u></p>

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		<u>inducements policy or procedures how they comply with the overarching principles.</u>
III-337	<p>2. Member States shall ensure that insurance intermediaries or insurance undertakings, when distributing insurance-based investment products in accordance with Article 30(1), only receive or pay fees or benefits from or to a third-party on the condition that those insurance intermediaries or insurance undertakings ensure that the reception or payment of such fees or benefits does not impair compliance with their duty to act honestly, fairly and professionally in accordance with the best interests of their customers.</p> <p>Insurance intermediaries and insurance undertakings shall disclose the existence, nature and amount of such third-party payments in accordance with Article 29.</p>	<p>2a. Member States shall ensure that insurance intermediaries or insurance undertakings, when distributing insurance-based investment products in accordance with Article 30(1), <u>shall</u> only receive or <u>pay or accept and retain inducements fees or benefits from or to a third-party</u> on the condition that those insurance intermediaries or insurance undertakings ensure that the reception or payment of such fees or benefits <u>inducements</u> does not impair compliance with their duty to act honestly, fairly and professionally in accordance with the best interests of their customers.</p>

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III-337a		<u>Insurance intermediaries and insurance undertakings shall be considered not to comply with their duty to act honestly, fairly and professionally in accordance with the best interest of their-customers if their inducements or inducement schemes do not meet at least the following criteria, where applicable:</u>
III-337b		<u>(a) the inducement takes into account qualitative criteria, such as compliance with applicable regulations and the quality of services provided to customers;</u>
III-337d		<u>(b) the insurance intermediary or insurance undertaking can demonstrate that—the inducement was taken into account in the context of the product governance requirements when assessing the cost structure of the insurance product;</u>
III-337e		<u>(c) an appropriate mechanism exists for reclaiming the inducement in nominal value</u>

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		<p><u>in case the product lapses or is surrendered at an early stage, unless such lapsing or surrendering is part of the normal functioning of the insurance-based investment product, or</u> <u>in case the interests of the customers have been harmed as a result of non-compliance of the insurance intermediary or insurance undertaking with investor protection requirements set forth in this Directive;</u></p>
III-337f		<p><u>(d) the inducement does not contain any form of variable or contingent threshold or any other kind of value accelerator which is unlocked by attaining a target based on volume or value of sales;</u></p>
III-337g		<p><u>(e) the inducement is based on a clear, comprehensible and transparent calculation method;</u></p>
III-337h		<p><u>(f) the inducement can be identified separately from other fees, commissions or</u></p>

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		<u>non-monetary benefits (such as fees relating to services for other customers) and payments or benefits which are necessary for the provision of services;</u>
III-337i		<u>Insurance intermediaries and insurance undertakings shall fulfil the requirements set out above on an ongoing basis as long as they continue to pay or accept and retain the inducement.</u>
III-337j		<u>Insurance intermediaries and insurance undertakings shall keep an internal list of all inducements paid or accepted and retained in relation to the provision of manufacturing and/or distribution of IBIPs, and keep records of the inducements test performed in accordance with paragraph 2 and the results of those tests for each inducement or inducement scheme.</u>
III-338a		2 b. Insurance intermediaries and insurance undertakings shall disclose the existence, nature and amount of such third-party

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		payments <u>inducements separately from other costs and charges</u> in accordance with Article 29 <u>(1)</u> .
III-338b	The prohibition contained in the first sub-paragraph shall not apply to minor non-monetary benefits of a total value below EUR 100 per annum or of a scale and nature such that those benefits do not impair compliance with the insurance intermediary's or insurance undertaking's duty to act in the best interests of their customer provided those benefits have been clearly disclosed to the customer.	2c. The prohibition contained in the first sub-paragraph <u>The overarching principles and the inducements test</u> shall not apply to minor non-monetary benefits of a total value below EUR 100 per annum <u>per third party</u> or of a scale and nature such that those benefits do not impair compliance with the insurance intermediary's or insurance undertaking's duty to act in the best interests of their customer provided those benefits have been clearly disclosed to the customer.
III-338c	Any payment or benefit which enables or is necessary for the provision of services, including regulatory levies or legal fees, and which by its nature cannot give rise to conflicts with the insurance intermediary's or insurance undertaking's duty to act honestly,	<u>2d.</u> Any payment or benefit which enables or is necessary for the provision of services, including regulatory levies or legal fees, and which by its nature cannot give rise to conflicts with the insurance intermediary's or insurance undertaking's duty to act honestly, fairly and professionally in accordance with the best

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	<p>fairly and professionally in accordance with the best interests of their customers, shall not be subject to the requirements set out in the first subparagraph.</p>	<p>interests of their customers, shall not be subject to the requirements set out in the first subparagraph <u>of the overarching principles and the inducements test.</u></p>
III-338d		<p><u>2e. Member States shall ensure that insurance intermediaries and insurance undertakings that distribute insurance-based investment products in accordance with Articles 30(2) and 30(3) through digital means without advice, using a filtering tool to make it possible for customers to select such products on the basis of various criteria, include an option that allows their customers to easily identify insurance-based investment products for which the insurance intermediaries or insurance undertakings do not pay or receive inducements. If the insurance intermediary or insurance undertaking do not offer such products to customers, they shall</u></p>

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		<u>prominently state this in the filtering tool.</u>
III-339	3. Member States shall ensure that insurance intermediaries and insurance undertakings shall, where applicable, inform the customer on mechanisms for transferring to the customer any fee, commission, monetary or non-monetary benefit received in relation to the distribution of the insurance-based product.	3. Member States shall ensure that insurance intermediaries and insurance undertakings shall, where applicable, inform the customer on mechanisms for transferring to the customer any <u>inducement fee</u> , commission, monetary or non-monetary benefit received in relation to the distribution of the insurance-based product.
III-340	4. Member States may impose stricter requirements on insurance intermediaries and insurance undertakings in respect of the matters covered by this Article. In particular, Member States may additionally prohibit or further restrict the offer or acceptance of fees, commissions or non-monetary benefits from third parties in relation to the provision of insurance advice.	4. Member States may impose stricter requirements on insurance intermediaries and insurance undertakings in respect of the matters covered by this Article. In particular, Member States may additionally prohibit or further restrict the offer or acceptance of fees, commissions or non-monetary benefits from third parties <u>inducements</u> in relation to the provision of insurance advice <u>distribution of insurance-based investment products.</u>

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III-341	Stricter requirements may include requiring any such fees, commissions or non-monetary benefits to be returned to the customers or offset against fees paid by the customer.	Stricter requirements may include requiring any inducements such fees, commissions or non-monetary benefits to be returned to the customers or offset against fees paid by the customer.
III-342	The stricter requirements of a Member State referred to in this paragraph shall be complied with by all insurance intermediaries or insurance undertakings, including those operating under the freedom to provide services or the freedom of establishment, when concluding insurance contracts with customers having their habitual residence or establishment in that Member State.	The stricter requirements of a Member State referred to in this paragraph shall be complied with by all insurance intermediaries or insurance undertakings, including those operating under the freedom to provide services or the freedom of establishment, when concluding insurance contracts with customers having their habitual residence or establishment in that Member State.
III-343	5. The Commission shall be empowered to supplement this Directive by adopting delegated acts in accordance with Article 38 to further specify:	5. The Commission shall be empowered to supplement this Directive by adopting delegated acts in accordance with Article 38 to further specify:

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III-344	(a) how insurance intermediaries and insurance undertakings are to comply with the principles set out in this Article;	(a) how insurance intermediaries and insurance undertakings are to comply with the principles set out in this Article;
III-345	(b) the criteria for assessing compliance of insurance intermediaries and insurance undertakings paying or receiving inducements with the obligation to act honestly, fairly and professionally in accordance with the best interests of the customer.	(b) the criteria for assessing compliance of insurance intermediaries and insurance undertakings paying or receiving inducements with the obligation to act honestly, fairly and professionally in accordance with the best interests of the customer.
III-346	6. Three years after the date of entry into force of Directive (EU) [OP Please introduce the number of the amending Directive] and after having consulted ESMA and EIOPA, the Commission shall assess the effects of third-party payments on retail investors, in particular in view of potential conflicts of interest and as regards the availability of independent advice, and	6. Five years after the date of entry into force of Directive (EU) [Please introduce the number of the amending Directive] and after having consulted ESMA and EIOPA, the Commission shall assess the effects of third-party payments inducements on retail investors customers , in particular in view of potential conflicts of interest and as regards the availability of independent advice on an independent basis ; and shall evaluate the

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	shall evaluate the impact of the relevant provisions of Directive (EU) [OP Please introduce the number of the amending Directive] on retail investors. If necessary to prevent consumer detriment, the Commission shall propose legislative amendments to the European Parliament and the Council.	impact of the relevant provisions of <u>this</u> Directive (EU) [Number of the amending Directive] on retail investors <u>customers</u> . If necessary to prevent consumer detriment, the Commission shall propose legislative amendments to the European Parliament and the Council.
III-347	Article 29b	Article 29b
III-348	Best interest of customers	Best interest of customers
III-349	1. Member States shall ensure that in order to act in the best interest of the customer in accordance with Article 17(1), when providing advice to customers on insurance-based investment products, insurance undertakings and insurance intermediaries are under the obligation:	1. Member States shall ensure that in order to act in the best interest of the customer in accordance with Article 17(1), when providing advice to customers on insurance-based investment products, insurance undertakings and insurance intermediaries <u>comply with the following requirements are</u> under the obligation:
III-350	(a) to provide such advice on the basis of an assessment of an appropriate range of insurance-based investment	(a) to provide such advice on the basis of an assessment of an appropriate range of insurance-based investment products <u>and,</u>

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	products and, where applicable, underlying investment assets;	where applicable, underlying investment assets; <u>identified as suitable for the customer pursuant to Article 30(1), from one or more manufacturers which must be sufficiently diversified with regard to their type, characteristics and underlying investment assets to ensure that the customer's investment objectives and demands and needs can be met. This requirement can also be met by offering a single insurance-based investment product with an appropriate range of underlying investment assets;</u>
III-351	(b) to recommend the most cost-efficient insurance-based investment product and, where applicable, underlying investment assets among the insurance-based investment products identified as suitable for the customer pursuant to Article 30(1) and offering similar features;	(b) to recommend the most cost-efficient insurance-based investment product and, where applicable, underlying investment assets, among the insurance-based investment products identified as suitable for the customer pursuant to Article 30(1) and offering similar features. <u>The assessment of cost-efficiency shall take into account the costs and</u>

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		<u>associated charges of those insurance-based investment products as well as other factors of the insurance-based investment product relevant to the customer, such as the performance and expected return;</u>
III-352	(c) to recommend, among the range of insurance-based investment products identified as suitable for the customer pursuant to Article 30(1), one or several insurance-based investment products and, where applicable, underlying investment assets, a product or products, without additional features that are not necessary to the achievement of the customer’s objectives and that give rise to extra costs;	(e) to recommend, among the range of insurance-based investment products identified as suitable for the customer pursuant to Article 30(1), one or several insurance-based investment products and, where applicable, underlying investment assets, a product or products, without additional features that are not necessary to the achievement of the customer’s objectives and that give rise to extra costs;
III-353	(d) to recommend an insurance-based investment products which insurance cover is consistent with the	(dc) to recommend an insurance-based investment products which insurance cover is consistent with the customer’s insurance demands and needs.’;

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	customer's insurance demands and needs.	
III-354	2. The Commission shall be empowered to supplement this Directive by adopting delegated acts in accordance with Article 38 to further specify how insurance intermediaries and insurance undertakings are to comply with the principles set out in this Article.	2. The Commission shall be empowered to supplement this Directive by adopting delegated acts in accordance with Article 38 to further specify how insurance intermediaries and insurance undertakings are to comply with the principles set out in this Article.
III-355	Those delegated acts shall take into account the nature of the services offered or provided to the customer, the nature of the products being offered or considered, including different types of insurance-based investment products.';	Those delegated acts shall take into account the nature of the services offered or provided to the customer, the nature of the products being offered or considered, including different types of insurance-based investment products.';
III-356	(46) Article 30 is amended as follows:	(22 46) Article 30 is amended as follows:
III-357	(a) the following paragraph -1 is inserted:	(a) the following paragraph -1 is inserted:

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III-358	<p>‘-1. Member States shall require that insurance intermediaries and insurance undertakings distributing insurance-based investment products assess the suitability or appropriateness of insurance-based investment products and, where applicable, underlying investment assets to be recommended to or demanded by customers in good time before the customers are bound by an insurance contract or offer. Each of these assessments shall be carried out on the basis of proportionate and necessary information about the customer as obtained by the insurance intermediary or insurance undertaking in accordance with the requirements set out in this Article.</p>	<p>‘-1. Member States shall require that insurance intermediaries and insurance undertakings distributing insurance-based investment products assess the suitability or appropriateness of insurance-based investment products and, where applicable, underlying investment assets to be recommended to or requested demanded by customers in good time before the customers are bound by an insurance contract or offer. Each of these assessments shall be carried out on the basis of proportionate and necessary information about the customer as obtained by the insurance intermediary or insurance undertaking in accordance with the requirements set out in this Article.</p>
III-359	<p>Member States shall ensure that insurance intermediaries and insurance undertakings distributing insurance-</p>	<p>Member States shall ensure that insurance intermediaries and insurance undertakings distributing insurance-based investment</p>

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	<p>based investment products explain to customers the purpose of the suitability or appropriateness assessment before any information is requested from them. Member States shall ensure that insurance intermediaries and insurance undertakings distributing insurance-based investment products warn customers, in a standardised format, of all of the following:</p>	<p>products explain to customers the purpose of the suitability or appropriateness assessment before <u>the information necessary for this assessment</u> any information is requested from them. Member States shall ensure that insurance intermediaries and insurance undertakings distributing insurance-based investment products warn customers, in a standardised format, <u>of all of the following consequences:</u></p>
III-360	<p>(a) that the provision of inaccurate or incomplete information may impact negatively the quality of the assessment to be made by the insurance intermediary or insurance undertaking</p>	<p>(a) that the provision of inaccurate or incomplete information may impact negatively the quality of the assessment to be made by the insurance intermediary or insurance undertaking;</p>
III-361	<p>(b) that the absence of information prevents the insurance intermediaries and insurance undertakings distributing insurance-based investment products from determining whether the service or financial instrument envisaged is</p>	<p>(b) that the absence of <u>the necessary information, including the provision of incomplete information,</u> prevents the insurance intermediaries and insurance undertakings distributing insurance-based investment products from determining whether</p>

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	suitable or appropriate for the customer and from providing advice.	<p>the insurance-based investment product the service or financial instrument envisaged is suitable or appropriate for the customer and from providing advice.</p> <p><u>Such warning shall be provided in a standardised format. Insurance intermediaries and insurance undertakings distributing insurance-based investment products shall keep a record of the warning provided to its customer.</u></p>
III-361a		<p><u>Member States shall ensure that insurance intermediaries and insurance undertakings distributing insurance-based investment products keep a record of the information collected from the customer for the purpose of the suitability or appropriateness assessment.</u></p>
III-362	Member States shall ensure that insurance intermediaries and insurance undertakings distributing insurance-based investment products provide	Member States shall ensure that insurance intermediaries and insurance undertakings distributing insurance-based investment products provide customers, upon their

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	customers, upon their request, with a report on the information collected for the suitability or appropriateness assessment. That report shall be presented in a standardised format, as developed by EIOPA.	request, with a report on the information collected for the purpose of the suitability or appropriateness assessment. That report shall be presented in a standardised format, as developed by EIOPA.
III-363	EIOPA shall develop draft regulatory technical standards to determine the explanation and warning referred to in the second subparagraph and the format and content of the report referred to in the third subparagraph.	EIOPA shall develop draft regulatory technical standards to determine the explanation and the warning referred to in the second subparagraph. and the format and content of the report referred to in the third subparagraph
III-364	EIOPA shall submit those draft regulatory technical standards to the Commission by [OJ: insert date 18 months after the date of entry into force].	EIOPA shall submit those draft regulatory technical standards to the Commission by [OJ: insert date 18 months after the date of entry into force].
III-365	Power is delegated to the Commission to adopt those regulatory technical standards in accordance with Article 10 of Regulation (EU) No 1094/2010.’;	Power is delegated to the Commission to adopt those regulatory technical standards in accordance with Article 10 of Regulation (EU) No 1094/2010.’;

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III-366	(b) paragraphs 1, 2 and 3 are replaced by the following:	(b) paragraphs 1, 2 and 3 are replaced by the following:
III-367	1. Without prejudice to Article 20(1), when providing advice on insurance-based investment products, the insurance intermediary or insurance undertaking shall obtain the information regarding the customer's knowledge and experience in the investment field relevant to the specific type of insurance-based investment product or, where applicable, underlying investment assets, offered or demanded, that customer's financial situation, including the composition of any existing portfolios, its ability to bear full or partial losses, investment needs and objectives, including any sustainability preferences, and risk tolerance, so as to enable the insurance intermediary or the insurance undertaking to recommend to	1. Without prejudice to Article 20(1), when providing advice on insurance-based investment products, the insurance intermediary or insurance undertaking shall obtain the <u>necessary</u> information regarding the customer's knowledge and experience in the investment field relevant to the specific type of insurance-based investment product or, where applicable, underlying investment assets, offered or demanded, the that customer's financial situation, including, <u>to the extent possible,</u> the composition of any existing portfolios, its ability to bear full or partial losses, investment needs and objectives, including any sustainability preferences and need for portfolio diversification, if any, and risk tolerance, so as to enable the insurance intermediary or the insurance undertaking to recommend to the customer the insurance-

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	<p>the customer the insurance-based investment products that are suitable for that person and that, in particular, are in accordance with its risk tolerance, ability to bear losses and need for portfolio diversification.</p>	<p>based investment products that are suitable for that customer person—and that, in particular, are in accordance with its risk tolerance, ability to bear losses and, <u>to the extent applicable,</u> need for portfolio diversification. <u>Where the customer is not willing to provide information on existing portfolios held with third parties, the insurance intermediary or insurance undertaking shall base the assessment of portfolio diversification on the information available to it.</u></p>
III-367a		<p><u>Member States shall ensure that insurance intermediary or insurance undertaking cannot consider a product to be suitable where it contains features which are not be necessary to the achievement—to of the customer's investment objectives and that give rise to extra costs.</u></p>
III-368	<p>When providing advice on an independent basis to retail customers restricted to well-diversified, non-</p>	<p>When providing advice on an independent basis to retail—customers restricted to well-diversified, non-complex, and cost-efficient</p>

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	<p>complex, and cost-efficient insurance-based investment products, the insurance intermediary or insurance undertaking shall be under no obligation to obtain information on the customer's knowledge and experience about the considered insurance-based investment products or on the customer's portfolio composition.</p>	<p>insurance-based investment products, the insurance intermediary or <u>insurance undertaking</u> shall be under no obligation to obtain information on the customer's knowledge and experience about the considered insurance-based investment products or on the customer's portfolio composition.</p>
III-369	<p>When providing advice that involves switching between underlying investment assets, insurance intermediaries and insurance undertakings shall obtain the necessary information on the customer's existing underlying investment assets and the recommended new investment assets and shall analyse the expected costs and benefits of the switch, so that they are reasonably able to demonstrate that the</p>	<p>When providing advice that involves switching between underlying investment assets, insurance intermediaries and insurance undertakings shall obtain the necessary information on the customer's existing underlying investment assets and the recommended new investment assets and shall analyse the expected costs and benefits of the switch, so that they are reasonably able to demonstrate that the benefits of switching are expected to be greater than the costs.</p>

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	benefits of switching are expected to be greater than the costs.	
III-370	<p>2. Without prejudice to Article 20(1), Member States shall ensure that, where no advice is given in relation to insurance-based investment products, the insurance intermediary or insurance undertaking shall ask the customer to provide information regarding that person's knowledge and experience in the investment field relevant to the specific type of insurance-based investment product or, where applicable, underlying investment assets, offered or demanded and the person's capacity to bear full or partial losses and risk tolerance so as to enable the insurance intermediary or the insurance undertaking to assess whether the insurance-based investment product</p>	<p>2. Without prejudice to Article 20(1), Member States shall ensure that, where no advice is given in relation to insurance-based investment products, the insurance intermediary or insurance undertaking shall ask the customer to provide information regarding that person's knowledge and experience in the investment field relevant to the specific type of insurance-based investment product or, where applicable, underlying investment assets, offered or <u>requested</u> demande and the person's capacity to bear full or partial losses and risk tolerance so as to enable the insurance intermediary or the insurance undertaking to assess whether the insurance-based investment product or products envisaged are appropriate for the customer.</p>

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	or products envisaged are appropriate for the customer.	
III-371	Where the insurance intermediary or insurance undertaking considers, on the basis of the information received under the first subparagraph, that the product is not appropriate for the customer, the insurance intermediary or insurance undertaking shall warn the customer. That warning shall be provided in a standardised format and shall be recorded.	Where the insurance intermediary or insurance undertaking considers, on the basis of the information received under the first subparagraph, that the product is not appropriate for the customer, the insurance intermediary or insurance undertaking shall warn the customer. That warning shall be provided in a standardised format <u>and shall be recorded. The insurance intermediary or the insurance undertaking shall keep a record of such warnings.</u>
III-372	The insurance intermediary or insurance undertaking shall not proceed with the distribution of an insurance-based investment product subject to a warning indicating that the product of service is not appropriate, unless the customer asks to proceed with it despite such warning and the insurance undertaking	The insurance intermediary or insurance undertaking shall not proceed with the distribution of an insurance-based investment product subject to a warning indicating that the product <u>or</u> service is not appropriate <u>or a warning indicating that the insurance intermediary or insurance undertaking cannot assess the appropriateness of the</u>

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	<p>accepts to conclude the contract at the demand of the customer. Both the demand of the customer and the acceptance by the insurance undertaking shall be recorded.</p>	<p><u>product or service</u>, unless the customer asks to proceed with it despite such warning and the insurance undertaking accepts to conclude the contract at the demand of the customer. <u>The insurance intermediary and the insurance undertaking distributing insurance-based investment products shall keep a record of</u> Both both the demand of the customer and the acceptance by the insurance undertaking shall be recorded.</p>
III-373	<p>EIOPA shall develop draft regulatory technical standards to determine the format and content of the warning referred to in the second subparagraph.</p>	<p>EIOPA shall develop draft regulatory technical standards to determine the format and content of the warning referred to in the second subparagraph.</p>
III-374	<p>EIOPA shall submit the draft regulatory technical standards to the Commission by [OJ: insert date 18 months after the date of entry into force].</p>	<p>EIOPA shall submit the draft regulatory technical standards to the Commission by [OJ: insert date 18 months after the date of entry into force].</p>
III-375	<p>Power is conferred on the Commission to adopt those regulatory technical</p>	<p>Power is conferred on the Commission to adopt those regulatory technical standards in</p>

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	standards in accordance with 10 of Regulation (EU) No 1094/2010.	accordance with Article 10 of Regulation (EU) No 1094/2010.
III-376	3. Without prejudice to Article 20(1), where no advice is given in relation to insurance-based investment products, Member States may derogate from the obligations referred to in paragraph 2 of this Article, allowing insurance intermediaries or insurance undertakings to carry out insurance distribution activities in relation to insurance-based investment products within their territories without the need to obtain the information or make the determination provided for in paragraph 2 of this Article where all of the following conditions are met:	3. Without prejudice to Article 20(1), where no advice is given in relation to insurance-based investment products, Member States may derogate from the obligations referred to in paragraph 2 of this Article, allowing insurance intermediaries or insurance undertakings to carry out insurance distribution activities in relation to insurance-based investment products within their territories without the need to obtain the information or make the determination provided for in paragraph 2 of this Article where all of the following conditions are met:
III-377	(a) the insurance distribution activities relate to either of the following:	(a) the insurance distribution activities relate to either of the following:

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III-378	(i) insurance-based investment products which only provide investment exposure to the financial instruments deemed non-complex under Directive 2014/65/EU and do not incorporate a structure which makes it difficult for the customer to understand the risks involved;	(i) insurance-based investment products which only provide investment exposure to the financial instruments deemed non-complex under Directive 2014/65/EU and do not incorporate a structure which makes it difficult for the customer to understand the risks involved;
III-379	(ii) other non-complex insurance-based investment products for the purpose of this paragraph;	(ii) other non-complex insurance-based investment products for the purpose of this paragraph;
III-380	(b) the insurance distribution activity is carried out at the initiative of the customer;	(b) the insurance distribution activity is carried out at the initiative of the customer;
III-381	(c) the customer has been clearly informed that, in the provision of the insurance distribution activity, the insurance intermediary or the insurance undertaking is not required to assess the appropriateness of the insurance-based investment product or insurance	(c) the customer has been clearly informed that, in the provision of the insurance distribution activity, the insurance intermediary or the insurance undertaking is not required to assess the appropriateness of the insurance-based investment product or insurance distribution activity provided or

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	distribution activity provided or offered and that the customer does not benefit from the corresponding protection of the relevant conduct of business rules. Such a warning shall be provided in a standardised format.	offered and that the customer does not benefit from the corresponding protection of the relevant conduct of business rules. Such a warning shall be provided in a standardised format.
III-382	(d) the insurance intermediary or insurance undertaking complies with its obligations under Articles 27 and 28.	(d) the insurance intermediary or insurance undertaking complies with its obligations under Articles 27 and 28.
III-383	All insurance intermediaries or insurance undertakings, including those operating under the freedom to provide services or the freedom of establishment, when distributing insurance-based investment products to customers having their habitual residence or establishment in a Member State which does not make use of the derogation referred to in this paragraph shall comply with the applicable provisions in that Member State.	All insurance intermediaries or insurance undertakings, including those operating under the freedom to provide services or the freedom of establishment, when distributing insurance-based investment products to customers having their habitual residence or establishment in a Member State which does not make use of the derogation referred to in this paragraph shall comply with the applicable provisions in that Member State.

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III-384	EIOPA shall develop draft regulatory technical standards to determine the format and content of warning referred to in the first subparagraph, point (c).	EIOPA shall develop draft regulatory technical standards to determine the format and content of warning referred to in the first subparagraph, point (c).
III-385	EIOPA shall submit the draft regulatory technical standards to the Commission by [OJ: insert date 18 months after the date of entry into force].	EIOPA shall submit the draft regulatory technical standards to the Commission by [OJ: insert date 18 months after the date of entry into force].
III-386	Power is conferred on the Commission to adopt those regulatory technical standards in accordance with 10 of Regulation (EU) No 1094/201039.’;	Power is conferred on the Commission to adopt those regulatory technical standards in accordance with 10 of Regulation (EU) No 1094/201039.’;
III-387	(c) paragraph 5 is replaced by the following:	(c) paragraph 5 is replaced by the following:
III-388	‘5. Member States shall ensure that insurance intermediaries or insurance undertakings provide the customer with adequate reports on the insurance distribution activities on a durable medium. Those reports shall contain periodic communications to customers,	‘5. Member States shall ensure that insurance intermediaries –or insurance undertakings provide the eustomer policyholder with adequate reports on the insurance distribution activities –on a durable medium. Those reports shall contain periodic communications to eustomers policyholders , taking into

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	<p>taking into account the type and the complexity of insurance-based investment products involved and the nature of the service provided to the customer and shall contain, where applicable, the costs associated with the transactions and services undertaken on behalf of the customer.</p>	<p>account the type and the complexity of insurance-based investment products involved and the nature of the service provided to <u>insurance distribution activities undertaken for the customer—policyholder</u> and shall contain, where applicable if not already provided for in the annual statement referred to in Article 29, paragraphs 2 and 3, the—costs fees associated with the transactions and services <u>those insurance distribution activities undertaken on behalf of the customer policyholder.</u></p>
III-388a		<p><u>Insurance intermediaries that directly charge fees to the policyholder shall provide adequate reports on the insurance distribution activities undertaken for the policyholder. Such a report shall include the nature of the insurance distribution activities undertaken by the insurance intermediary for the policyholder during</u></p>

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		<u>the reporting period and the fees associated with those insurance distribution activities.</u>
III-389	<p>Member States shall ensure that insurance intermediaries or insurance undertakings, when providing advice on insurance-based investment products, provide the customer sufficiently before the conclusion of the contract and on a durable medium, with a suitability statement specifying the advice given and how that advice meets the preferences, objectives and other characteristics of the customer. The provision of such statement shall be made sufficiently in advance before the customer is bound by an insurance contract or offer to ensure that the customer gets enough time to review it, and where necessary, obtain additional information or clarifications from the</p>	<p>Member States shall ensure that insurance intermediaries or insurance undertakings, when providing advice on insurance-based investment products, provide the customer sufficiently before the conclusion of the contract and on a durable medium, with a suitability statement specifying the advice given and how that advice meets the preferences, objectives and other characteristics of the customer. The provision of such statement shall be made sufficiently in advance before the customer is bound by an insurance contract or offer to ensure that the customer gets enough time to review it, and where necessary, obtain additional information or clarifications from the insurance intermediary or insurance undertaking.</p>

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	insurance intermediary or insurance undertaking.	
III-390	Member States shall ensure that where the insurance contract is concluded by means of distance communication which prevents the prior delivery of the suitability statement, the insurance intermediary or the insurance undertaking may provide the suitability statement on a durable medium immediately after the customer is bound by an insurance contract, provided that both of the following conditions are met:	Member States shall ensure that where the insurance contract is concluded by means of distance communication which prevents the prior delivery of the suitability statement, the insurance intermediary or the insurance undertaking may provide the suitability statement on a durable medium immediately after the customer is bound by an insurance contract, provided that both of the following conditions are met:
III-391	(a) the customer has consented to receiving the suitability statement without undue delay after the conclusion of the contract;	(a) the customer has consented to receiving the suitability statement without undue delay after the conclusion of the contract;
III-392	(b) the insurance intermediary or insurance undertaking has given the customer the option of delaying the	(b) the insurance intermediary or insurance undertaking has given the customer the option of delaying the conclusion of the contract to

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	conclusion of the contract to receive the suitability statement in advance of such conclusion.	receive the suitability statement in advance of such conclusion.
III-393	Member States shall ensure that where an insurance intermediary or an insurance undertaking has informed the customer that it will carry out a periodic assessment of suitability, the periodic report shall contain an updated statement of how the insurance-based investment product meets the customer's preferences, objectives and other characteristics of the retail customer.';	Member States shall ensure that where an insurance intermediary or an insurance undertaking has informed the customer that it will carry out a periodic assessment of suitability, the periodic report shall contain an updated statement of how the insurance-based investment product meets the customer's preferences, objectives and other characteristics of the retail customer.';
III-394	(d) the following paragraphs 5a, 5b and 5c are inserted:	(d) the following paragraphs 5a, 5b and 5c are inserted:
III-395	'5a. Member States may impose stricter requirements on distributors in respect of the matters covered by this Article. In particular, Member States may make the provision of advice referred to in Article	'5a. Member States may impose stricter requirements on distributors in respect of the matters covered by this Article. In particular, Member States may make the provision of advice referred to in Article 30 mandatory for

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	30 mandatory for the sales of any insurance-based investment products, or for certain types of them.	the sales of any insurance-based investment products, or for certain types of them.
III-396	Member States shall ensure that their stricter requirements referred to in the first subparagraph are complied with by all insurance intermediaries or insurance undertakings, including those operating under the freedom to provide services or the freedom of establishment, when concluding insurance contracts with customers having their habitual residence or establishment in that Member State.	Member States shall ensure that their stricter requirements referred to in the first subparagraph are complied with by all insurance intermediaries or insurance undertakings, including those operating under the freedom to provide services or the freedom of establishment, when concluding insurance contracts with customers having their habitual residence or establishment in that Member State.
III-397	5b. Member States shall require that, where an insurance intermediary or insurance undertaking distributing insurance-based investment products informs the customer that advice is given on an independent basis, the	5b. Member States shall require that, where an insurance intermediary or insurance <u>undertaking</u> distributing insurance-based investment products informs the customer that advice is given on an independent basis, the insurance intermediary or insurance <u>undertaking:</u>

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	insurance intermediary or insurance undertaking;	
III-398	(a) assesses a sufficiently large number of insurance products available on the market which are sufficiently diversified with regard to their type and product providers to ensure that the customer's objectives can be suitably met and shall not be limited to insurance products issued or provided by entities having close links with the insurance intermediary or insurance undertaking;	(a) assesses a sufficiently large number of insurance products available on the market which are sufficiently diversified with regard to their type and product providers to ensure that the customer's objectives can be suitably met and shall not be limited to insurance products issued or provided by entities having close links with the insurance intermediary or <u>insurance undertaking</u> ;
III-399	(b) not accept and retain fees, commissions or any monetary or non-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.	(b) not accept and retain <u>inducements</u> fees, commissions or any monetary or non-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.
III-399a		<u>This paragraph shall not prevent insurance intermediaries that are not employed by or</u>

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		<p><u>contractually tied to an insurance undertaking, but receive inducements from the insurance undertaking and that fall within the scope of Article 29a, from presenting themselves as not contractually tied to a specific insurance undertaking.</u></p>
III-400	<p>5c. When providing investment advice to retail customers on an independent basis, the insurance intermediary or insurance undertaking may limit the assessment in relation to the type of insurance-based investment products mentioned in paragraph 5b, point (a), to well-diversified, cost-efficient and non-complex insurance-based investment products. Before accepting such service, the retail customer shall be duly informed about the possibility and conditions to get access to standard independent advice and the associated benefits and constraints.’;</p>	<p>5c. When providing investment advice to retail customers on an independent basis, the insurance intermediary or <u>insurance undertaking</u> may limit the assessment in relation to the type of insurance-based investment products mentioned in paragraph 5b, point (a), to well-diversified, cost-efficient and non-complex insurance-based investment products. Before accepting such service, the retail customer shall be duly informed about the possibility and conditions to get access to standard independent advice and the associated benefits and constraints.’;</p>

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III-401	(e) paragraph 6 is replaced by the following:	(e) paragraph 6 is replaced by the following:
III-402	‘6. The Commission shall be empowered to supplement this Directive by adopting delegated acts in accordance with Article 38 to further specify how insurance intermediaries and insurance undertakings are to comply with the principles set out in this Article when carrying out insurance distribution activities in relation to insurance-based investment products, including with regard to:	‘6. The Commission shall be empowered to supplement this Directive by adopting delegated acts in accordance with Article 38 to further specify how insurance intermediaries and insurance undertakings are to comply with the principles set out in this Article when carrying out insurance distribution activities in relation to insurance-based investment products, including with regard to:
III-403	(a) the information to be obtained when assessing the suitability and appropriateness of insurance-based investment products for their customers;	(a) the information to be obtained when assessing the suitability and appropriateness of insurance-based investment products for their customers;
III-404	(b) the criteria to assess non-complex insurance-based investment products for the purposes of paragraph 3, point (a)(ii), of this Article;	(b) the criteria to assess non-complex insurance-based investment products for the purposes of paragraph 3, point (a)(ii), of this Article;

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III-405	(c) the content and format of records and agreements for the provision of services to customers and of periodic reports to customers on the services provided.	(c) the content and format of records and agreements for in relation to the provision of services to <u>insurance distribution activities undertaken for the</u> customers and of periodic reports to customers on the services provided <u>those insurance distribution activities.</u>
III-406	Those delegated acts shall take into account the nature of the services offered or provided to the customer, the nature of the products being offered or considered, including different types of insurance-based investment products and the retail or professional nature of the customer.’;	Those delegated acts shall take into account the nature of the services offered or provided to the customer, the nature of the products being offered or considered, including different types of insurance-based investment products and the retail or professional nature of the customer.’;
III-407	(47) Article 35(2) is amended as follows:	(23 47) Article 35(2) is amended as follows:
III-408	(a) point (a) is replaced by the following:	(a) point (a) is replaced by the following:
III-409	‘(a) specific procedures for the receipt of reports on potential or actual infringements and their follow-up,	‘(a) specific procedures for the receipt of reports on potential or actual infringements and their follow-up, including the

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	including the establishment of secure communication channels for such reports.’ ’;	establishment of secure communication channels for such reports.’ ’;
III-410	(b) the following subparagraph is added:	(b) the following subparagraph is added:
III-411	‘The specific procedures referred to in point (a) shall also include the creation, on the front page of each competent authority’s website, of a link to a simple reporting form allowing any person to report potential or actual infringements to Union law. Member States shall require competent authorities to analyse, without undue delay, all reports submitted via that reporting form;	‘The specific procedures referred to in point (a) shall also include the creation, on the front page of each competent authority’s website, of a link to a simple reporting form allowing any person to report potential or actual infringements to Union law. Member States shall require competent authorities to analyse, without undue delay, all reports submitted via that reporting form;
III-412	(48) the following Article 35a is inserted:	(24 48) the following Article 35a is inserted:
III-413	‘Article 35a	‘Article 35a

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III-414	Procedure to address activities offered through digital means without authorisation or registration	Procedure to address activities offered through digital means without authorisation or registration
III-415	<p>1. Member States shall ensure that where a natural or legal person is pursuing insurance distribution activities online targeting customers within its territory without being registered in accordance with Article 3 of this Directive or authorised in accordance with Article 14 of Directive 2009/138/EC, or where a competent authority to suspect that that entity pursues such activities without being registered in accordance with Article 3 of this Directive or authorised in accordance with Article 14 of Directive 2009/138/EC, the competent authority takes all appropriate and proportionate measures to prevent the pursuit of these distribution activities, including related</p>	<p>1. Member States shall ensure that where a natural or legal person is pursuing insurance distribution activities online targeting customers within its territory without being registered in accordance with Article 3 of this Directive or authorised in accordance with Article 14 of Directive 2009/138/EC, or where a competent authority <u>has reasonable grounds</u> to suspect that that entity <u>such natural or legal person</u> pursues such activities without being registered in accordance with Article 3 of this Directive or authorised in accordance with Article 14 of Directive 2009/138/EC, the competent authority takes all appropriate and proportionate measures to prevent the pursuit of these distribution activities, including related marketing communication, by resorting</p>

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	marketing communication, by resorting to the supervisory powers referred to in Article 12(3). Any such measures shall respect the principles of cooperation between Member States set out in this Directive.	to the supervisory powers referred to in Article 12(3). Any such measures shall respect the principles of cooperation between Member States set out in this Directive.
III-416	2. Member States shall provide that competent authorities publish any decision imposing a measure pursuant to paragraph 1 in compliance with Article 32.	2. Member States shall provide that competent authorities publish any decision imposing a measure pursuant to paragraph 1 in compliance with Article 32.
III-417	Competent authorities shall inform EIOPA of any decision referred to in paragraph 2 without undue delay. EIOPA shall establish an electronic database containing the decisions submitted by competent authorities, which shall be accessible to all competent authorities. EIOPA shall publish a list of all existing decisions, describing the natural or legal persons	Competent authorities shall inform EIOPA of any decision referred to in paragraph 2 without undue delay. EIOPA shall establish an electronic database containing the decisions submitted by competent authorities, which shall be accessible to all competent authorities. EIOPA shall publish a list of all existing decisions, describing the natural or legal persons concerned and the types of services or products provided. The list shall be accessible

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	concerned and the types of services or products provided. The list shall be accessible to the public through a link on EIOPA’s website. As regards natural persons, this list shall not lead to the publication of more personal data of those natural persons than that published by the competent authority pursuant to the first subparagraph, and in accordance with Article 32.’;	to the public through a link on EIOPA’s website. As regards natural persons, this list shall not lead to the publication of more personal data of those natural persons than that published by the competent authority pursuant to the first subparagraph, and in accordance with Article 32.’;
III-418	(49) Article 38 is replaced by the following:	(25 49) Article 38 is replaced by the following:
III-419	‘Article 38	‘Article 38
III-420	Delegated acts	Delegated acts
III-421	The Commission shall be empowered to adopt delegated acts in accordance with Article 39 concerning Articles 10, 25, 26a, 28, 29a, 29b and 30.’;	The Commission shall be empowered to adopt delegated acts in accordance with Article 39 concerning Articles 10, 25, 26a, 28, 29a, 29b and 30.’;
III-422	(50) Article 39 is amended as follows:	(26 50) Article 39 is amended as follows:

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III-423	(a) the paragraphs 2 and 3 are replaced by the following:	(a) the paragraphs 2 and 3 are replaced by the following:
III-424	‘2. The power to adopt delegated acts referred to in Articles 10, 25, 26a, 28, 29a, 29b and 30 shall be conferred on the Commission for an indeterminate period of time from 22 February 2016.	‘2. The power to adopt delegated acts referred to in Articles 10, 25, 26a, 28, 29a ; 29b and 30 shall be conferred on the Commission for an indeterminate period of time from 22 February 2016.
III-425	3. The delegation of power referred to in Articles 10, 25, 26a, 28, 29a, 29b and 30 may be revoked at any time by the European Parliament or by the Council. A decision to revoke 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.’;	3. The delegation of power referred to in Articles 10, 25, 26a, 28, 29a ; 29b and 30 may be revoked at any time by the European Parliament or by the Council. A decision to revoke 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.’;

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III-426	(b) the following paragraph 3a is inserted:	(b) the following paragraph 3a is inserted:
III-427	‘3a. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.’;	‘3a. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.’;
III-428	(c) paragraph 5 is replaced by the following:	(c) paragraph 5 is replaced by the following:
III-429	‘5. A delegated act adopted pursuant to Articles 10, 25, 26a, 28, 29a, 29b and 30 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of three months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council	‘5. A delegated act adopted pursuant to Articles 10, 25, 26a, 28, 29a, 29b and 30 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of three months of notification of that act to the European Parliament and to 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

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	have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or of the Council.’;	period shall be extended by three months at the initiative of the European Parliament or of the Council.’;
III-430	(51) Annex I is amended in accordance with Annex III to this Directive.	(27 51) Annex I is amended in accordance with Annex III to this Directive.