

THE INSURANCE MEDIATION DIRECTIVE 2002/92/EC OF 9 DECEMBER 2002

Manuel ALTEMIR
Insurance and Pensions Funds Unit

Screening process
Screening meeting with Croatia and Turkey
29 March 2006

INSURANCE MEDIATION AND INTERNAL MARKET

- **Why a directive for intermediaries?**
 - **A true insurance internal market requires also an internal market for insurance intermediaries**
 - **Insurance mediation plays a capital role in distribution and selling of insurance**
 - **Essential for retail markets and consumers**
 - **Obstacles remain impeding an internal market for insurance mediation**

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- **Obstacles remain impeding an internal market for insurance mediation:**
 - **Uncertainty on legislation applicable**
 - **Compliance with several national divergent legislations**
- **Action Plan for Financial Services**
 - **Strategy to achieve internal market**
 - **Insurance intermediaries: field where a priority action is necessary**

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- **Objective of the insurance mediation directive**
 - **Establish an internal market for insurance mediation and complete insurance internal market**
 - **Provide for a regulatory framework**
 - **Ensuring a high level of professionalism of insurance intermediaries**
 - **Guaranteeing a high level of protection to customers**

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- **Recommendation 92/48/EEC**
 - **Invites Member States to adopt national provisions regulating taking up of insurance mediation:**
 - **Registration in a professional register**
 - **possession of general, commercial and professional knowledge and ability**
 - **Insurance intermediaries shall be of good repute and shall not have been declared bankrupt**
 - **Insurance intermediaries shall possess professional indemnity cover**
 - **For insurance brokers shall have sufficient financial capacity**
 - **Adequate sanctions against insurance intermediaries**

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- **The Directive on insurance mediation 2002/92/EC of 9.12.2002**
 - **Scope**
 - **Legal framework :**
 - **Professional requirements of insurance intermediaries**
 - **Information requirements to customers by insurance intermediaries**

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- **Scope (art. 1)**
 - **Covers every EU insurance intermediary**
 - "Functional" definition of insurance intermediary not "institutional" (art. 2 §5)
 - Covers national and EU activities
 - "Bancassurance" is included
 - Car-dealers, travel agencies are included.

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- **Scope (art. 1)**
- **Exclusions:**
 - **Persons who distribute insurance as ancillary activity to their professional activity,**
 - **the insurance is complementary to the product or service supplied by these persons,**
 - **the insurance covers risks related to such products or services supplied: (breakdown, loss or damages of the product supplied or losses related to a travel booked with the provider – travel agencies)**
 - **does not cover liability or life risks except when ancillary to a travel insurance**
 - **the premium is less than EUR 500:year and the duration of the insurance contract does not exceed 5 years.**

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Professional requirements to the access of the activity

- **Registration of the insurance intermediary (Art. 3)**
 - With a competent authority in his Home Member State
 - Provided the intermediary fulfils professional requirements laid down in the Directive (Article 4)
- **Member States may designate one or several competent authorities**
- **Registration → "European Passport"**

The intermediary may conduct business in the whole EU on a cross-border basis under the control of the Home State

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INSURANCE MEDIATION DIRECTIVE Professional requirements Article 4

- **Intermediaries shall possess appropriate knowledge distribution and selling of insurance**
 - **Fixed by the Home State**
 - **The Host State may adjust the level of knowledge in line with the activity or the products distributed, in particular for "tied intermediaries"**
 - **Intermediaries legal persons:**
 - **shall have a reasonable proportion of persons within the management fulfilling this requirement**
 - **Staff involved in mediation shall possess the knowledge necessary for the performance of its duties**

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Professional requirements

Article 4

- **Intermediaries shall be of good repute and not be previously declared bankrupt**
- **Professional indemnity insurance or comparable guarantee**
 - **Minimum 1.000.000 € per claim or 1.500.000 € in aggregate per year/claims**
 - **Exempted if an insurer on whose behalf the intermediary acts takes full responsibility**

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Professional requirements Article 4

- Intermediaries handling money from customers shall possess sufficient financial capacity:
 - Financial capacity of at least 4% on annual premiums with a minimum of 15.000 €
 - Setting up of a guarantee fund
 - Customer's monies shall be transferred via segregated client accounts reserved to customers in case of bankruptcy
 - Legal provisions whereby money paid to the intermediary by the customer is treated as having been paid to the insurer

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INSURANCE MEDIATION DIRECTIVE INFORMATION REQUIREMENTS Articles 12-13

- *To whom?*
 - To life assurance and non-life insurance customers
 - exception: non-life large industrial risks policyholders
- *When?*
 - Before the conclusion of the insurance contract and if necessary at the time of amendment /renewal of the contract.

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INSURANCE MEDIATION DIRECTIVE INFORMATION REQUIREMENTS Articles 12-13

How to inform?

- **Written form on paper or any durable medium (DVD, floppy disk, etc.)**
- **Clear and accurate manner comprehensible to the customer**
- **In an official language of the State where the customer is resident or other language agreed by the parties**

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INSURANCE MEDIATION DIRECTIVE INFORMATION REQUIREMENTS Articles 12-13

- If the intermediary gives advice on the basis of a fair analysis: he must base the advice on an analysis of a sufficient number of insurance contracts available on the market
- The intermediary must specify in written the demands and needs of the customer and state the underlying reasons for the advice given

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- **Adoption in December 2002**
- **Deadline for transposition: 15 January 2005**
- **Infringement procedure**
 - **Letter of formal notice**
 - **Reasoned Opinion**
 - **European Court of Justice**

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For further information:

http://europa.eu.int/comm/internal_market/insurance/index_en.htm