

Directive (EU) 2016/97 of the European Parliament and of the Council of
20 January 2016 on insurance distribution (recast) (Text with EEA relevance)

CHAPTER VIII

FINAL PROVISIONS

Article 37

Data protection

- 1 Member States shall apply Directive 95/46/EC to the processing of personal data carried out in the Member States pursuant to this Directive.
- 2 Regulation (EC) No 45/2001 shall apply to the processing of personal data carried out by EIOPA pursuant to this Directive.

Article 38

Delegated acts

The Commission shall be empowered to adopt delegated acts in accordance with Article 39 concerning Articles 25, 28, 29 and 30.

Article 39

Exercise of the delegation

- 1 The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
- 2 The power to adopt delegated acts referred to in Articles 25, 28, 29 and 30 shall be conferred on the Commission for an indeterminate period of time from 22 February 2016.
- 3 The delegation of powers referred to in Articles 25, 28, 29 and 30 may be revoked at any time by the European Parliament or by the Council. A decision of revocation 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.
- 4 As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
- 5 A delegated act adopted pursuant to Articles 25, 28, 29 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 period shall be extended by three months at the initiative of the European Parliament or of the Council.

Article 40

Transitional period

Member States shall ensure that intermediaries already registered under Directive 2002/92/EC comply with the relevant provisions of national law implementing Article 10(1) of this Directive by 23 February 2019.

Article 41

Review and evaluation

1 By 23 February 2021, the Commission shall submit to the European Parliament and to the Council a report on the application of Article 1. Such report shall include an assessment, on the basis of information received from the Member States and EIOPA pursuant to Article 1(5), of whether the scope of this Directive, including the exception in Article 1(3), remains appropriate with regard to the level of consumer protection, the proportionality of treatment between different insurance distributors and the administrative burden imposed on competent authorities and insurance distribution channels.

2 By 23 February 2021, the Commission shall review this Directive. The review shall include a general survey of the practical application of rules under this Directive taking due account of developments in the retail investment products markets as well as experiences acquired in the practical application of this Directive and of Regulation (EU) No 1286/2014 and Directive 2014/65/EU. The review shall include an evaluation of whether the specific conduct of business rules for the distribution of insurance-based investment products set out in Chapter VI of this Directive deliver appropriate and proportionate results, taking into account the need to ensure a sufficient level of consumer protection consistent with the investor protection standards applicable under Directive 2014/65/EU and the specific characteristics of insurance-based investment products and the specific nature of their distribution channels. The review shall also reflect upon a possible application of the provisions of this Directive to products falling under the scope of Directive 2003/41/EC. Such review shall also include a specific analysis of the impact of Article 19 of this Directive, taking into account the situation of competition in the market of insurance distribution for contracts other than contracts in any of the classes specified in Annex II to Directive 2009/138/EC and the impact of the obligations referred to in Article 19 of this Directive on insurance intermediaries which are small and medium sized enterprises.

3 After consulting the Joint Committee of European Supervisory Authorities, the Commission shall submit a first report to the European Parliament and the Council.

4 By 23 February 2020, and at least every two years thereafter, EIOPA shall prepare a further report on the application of this Directive. EIOPA shall consult the European Securities and Markets Authority before making public its report.

5 In a third report to be prepared by 23 February 2018, EIOPA shall undertake an evaluation of the structure of insurance intermediaries' markets.

6 The report to be prepared by EIOPA by 23 February 2020 referred to in paragraph 4 shall examine whether the competent authorities referred to in Article 12(1) are sufficiently empowered and have adequate resources to carry out their tasks.

7 The report referred to in paragraph 4 shall examine at least the following issues:

- a any changes in the insurance intermediaries' market structure;

- b any changes in the patterns of cross-border activity;
- c the improvement of quality of advice and selling methods and the impact of this Directive on insurance intermediaries which are small and medium-sized enterprises.

8 The report referred to in paragraph 4 shall also include an evaluation by EIOPA of the impact of this Directive.

Article 42

Transposition

1 Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 23 February 2018. They shall forthwith communicate to the Commission the text of those provisions.

When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. They shall also include a statement that references in existing laws, regulations and administrative provisions to the Directive repealed by this Directive shall be construed as references to this Directive. Member States shall determine how such reference is to be made and how that statement is to be formulated.

2 Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 43

Amendment of Directive 2002/92/EC

Chapter IIIA of Directive 2002/92/EC is deleted with effect from 23 February 2016.

Article 44

Repeal

Directive 2002/92/EC, as amended by the Directives listed in Annex II, Part A, is repealed with effect from 23 February 2018, without prejudice to the obligations of the Member States relating to the time limits for the transposition into national law of the Directives set out in Annex II, Part B.

References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table set out in Annex III.

Article 45

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Status: This is the original version (as it was originally adopted).

Article 46

Addressees

This Directive is addressed to the Member States.