

## How to make the repeal of the Distance Marketing Directive work



### **Transfer the remaining provisions of the Directive on Distance Marketing of Consumer Financial Services (DMD) to sector-specific legal acts**

For insurance, this would mean transfers to the more recent, product-specific and horizontal EU legislation: eg, the Insurance Distribution Directive (IDD), the Packaged Retail Investment and Insurance Products (PRIIPs) Regulation and the Solvency II Directive.



### **Strengthen the wording on subsidiarity to ensure legal certainty**

It would be preferable to list as examples particularly obvious sectoral legal acts, such as Solvency II or the IDD, in the respective subsidiarity clauses. This would be further strengthened if all subsidiarity provisions consistently excluded the application of the preceding paragraphs (**Articles 16a, 16b and 16d**).



### **Avoid duplications**

The IDD, Solvency II, the PRIIPs Regulation and the Pan-European Personal Pension Product (PEPP) Regulation already regulate information and their requirements should be the only provisions to apply. This should be clarified explicitly in the new text (**Article 16a**).

The need for adequate explanations would also duplicate existing IDD requirements and should, therefore, be deleted (**Article 16d**).



### **Beware of unintended consequences arising from the introduction of a withdrawal button (Article 16b (5))**

Consumers may find themselves **inadvertently uninsured**, without fully understanding whether withdrawal was their best option.

**The number of uninsured individuals may increase**, particularly in areas of compulsory insurance, where the lack of insurance coverage would be a significant issue for possible victims.

**Abuse of contract withdrawals could increase**, whereby contracts are terminated after the risk of loss has passed without occurring (eg, a customer buys annual travel insurance and withdraws from it after a trip if no loss has occurred).



### The introduction of a withdrawal button would impose a significant administrative burden on insurers, who would need to reconfigure their IT systems

If the button is introduced, insurers must however have the flexibility to position it somewhere the consumer would find logical, such as on the customer portal, even if the purchase was concluded in a different flow **(Article 16a(5))**.



### Delete the requirement for pre-contractual information at least one day before the time at which the consumer is bound by any distance contact

This is not practical and slows the purchasing process, when the speed and ease of entering into a contract and receiving immediate insurance protection is essential for consumers (eg, for travel and motor insurance) **(Article 16a(3))**.

If this provision is not deleted, then it would be better for legal clarity to use the term “conclusion of the contract” instead of “time at which the consumer is bound by the contract”. There is no reason to distinguish between the two since a consumer is bound by the contract once it is concluded.



### The provision of an email address to consumers is outdated in terms of data security and fraud prevention

Some member states are currently working towards developing other means of safe electronic communications (eg, password-protected platforms) to minimise the risk of fraud and to enhance data security. Communication via email would be contrary to such initiatives **(Article 16a(1)(b))**.



### The requirement to always be able to obtain human intervention may not be compatible with digital developments

Online tools (eg, chatbots) are available 24/7 and it is unclear whether the new provision requires human intervention to also be available 24/7. The text should clarify that it is enough to provide customers with information about customer service and its opening hours **(Article 16d(3))**.



### Insurers need sufficient transposition time

A sufficient transposition period should be included in the Directive, such as a minimum of six months from the end of the implementation period, since it requires changes to IT systems and updates to materials and processes **(Article 2)**.

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