

Interview with Karel Van Hulle,

Head of Insurance and Pensions Unit, DG Internal Market & Services, European Commission

On the way to IMD II - State of affairs after the public hearing

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BIPAR, the European Federation of Insurance Intermediaries, is a non-profit European organisation grouping professional associations of insurance intermediaries in Europe. It presently has a membership of 50 national associations, established in 32 countries, and represents some 80,000 insurance agents and brokers, employing in all about 250,000 people. Founded in Paris in 1937, BIPAR headquarters were moved to Brussels in 1989. It is today the recognised single voice of insurance intermediaries with the European Institutions.



Karel Van Hulle is a lawyer by training and is Head of Unit at the European Commission (Directorate-General "Internal Market and Services"), which he joined in 1984 after having served eight years with the Belgian Banking Commission, where one of his main tasks consisted in taking care of the Secretariat of the newly created Belgian Accounting Standards Committee.

At the European Commission, he was subsequently Head of Unit for Accounting Standards, Head of Unit for Financial Reporting and Company Law and Head of Unit for Accounting and Auditing. In that capacity he was closely involved with harmonisation in the fields of accounting, auditing, and company law both at EU level and internationally and served as the Commission's observer with the International Accounting Standards Committee (IASC), with the International Auditing and Assurance Standards Board (IAASB), with the European Financial Reporting Advisory Group (EFRAG) and with CESRfin. He was Secretary of the High Level Group of Experts on Company Law which prepared the Commission's 2003 Action Plan on Company Law.

Since November 2004, he is Head of the Insurance and Pensions Unit. In his present function, his main responsibility is the preparation of a new solvency regime for insurance and reinsurance companies (Solvency II). Other areas of responsibility include life assurance, non-life insurance, reinsurance, motor insurance, insurance guarantee schemes and pension funds. Karel has represented the European Commission within the Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS), participates on behalf of the Commission in the work of EIOPA and is a member of the Technical Committee of the International Association of Insurance Supervisors (IAIS).

***BIPAR: After the public hearing, you may have new views on the future scope of the IMD II ?
What is most likely going to be part of this IMD II ?***

KVH: Commissioner Barnier was quite clear at the public hearing : he wants a consistent approach for the regulation of the sale of investment products. We need more transparency, a level playing field and we want to build consumer confidence in the Single Market. Commission Barnier is very much interested in improving the life of citizens in the European Union.

The level playing field is an important issue. BIPAR wants a broad scope of the IMD II and that is probably what we will have. We want to extend the scope of the IMD to direct sales by insurance undertakings. Of course there will have to be some differences in approach depending on the specificities of the distribution channels. Reinsurance intermediaries will also remain in the scope of the IMD. We will need to take into account the differences between PRIPs insurance products and other categories of products. We need to retain the activity-based definition of insurance intermediation and we should try to clarify the exemptions from the scope of the Directive.

BIPAR: Will the registration, general good or notification regime change ?

KVH: We believe that we should keep the current registration regime but try to simplify the regime of notification for intermediaries who are planning to work in other Member States.

We inherited the general good principle from the insurance sector. It is also applied here. If you submit your reaction to the consultation, I invite you to give us examples where you believe that the general good principle is being abused. I am personally not so much a believer of this principle but we do have a market where insurance products are very different and this has also consequences on the sale of those products. We will try to find a way to shape this clause better in IMD II.

In the same way, we will try to integrate the definitions of freedom to provide services and freedom of establishment into the IMD, which could be helpful and include the mutual recognition clause of the Luxembourg Protocol in the IMD II.

BIPAR: What is the current line of thinking regarding transparency ?

KVH: Transparency is clearly an area where a lot of discussions will still take place. More transparency is needed in the relationship between intermediaries, customers and insurance undertakings. We will try to bring this about. We will need to have some high level principles of conflicts of interests in IMD II. MiFID level one could be an inspiration for that but we have no intention to take over all the MiFID rules in this respect because we do not believe that they fully reflect the specificities of the insurance sector. The conclusion of the DG Competition's sector inquiry was that more transparency of intermediaries' remuneration could lead to more competition. This has already been the subject of a lot of debate. There is now a consensus building up in the direction of a system of disclosure upon request.

BIPAR: What about the remuneration system ?

KVH: People are saying that there is no need for the Commission to tackle the remuneration issue. The matter is that things have moved on since we adopted the IMD. Remuneration issues have become important elements in the debate about financial services, whether one wants it or not. I think that we have to find a sensible solution here. There will be a lot of pressure from consumer organisations to improve the IMD in this respect. There is also the influence of the countries that have net quoting. We also have the MiFID-style inducement rules, that some countries believe should be introduced in the IMD, such as the Netherlands, where people argue that we have to stop commission payments, that we have to introduce cost-agreed remuneration. Some people believe that everything will be resolved once we abolish commissions.. We should however not forget that the move towards cost-agreed remuneration has been influenced a lot by important misselling in a number of countries. Whether we need to introduce these rules to the whole of the EU is another matter. These are challenges that we will have to face : some people say « stop commissions », others will want more disclosure, your position is disclosure on request, some want disclosure at all times. These discussions are clearly going to preoccupy us in the coming months. But clearly, if the Directive is minimum harmonization, there is no need to have the same regime everywhere. We need to increase the level of harmonization, the level of regulation in this area. If Member States want to go beyond the agreed minimum, they should be able to do that if they can justify why they do this. We may however want to impose certain restrictions to Member States' freedom in this regard. It is, for instance, not at all clear that a system of net quoting is ultimately in the interest of policyholders.

BIPAR: Will there be more details on training ?

KVH: With regard to professional requirements and training, there seems to be a kind of consensus to say let's keep the high level principles that we have, improve them where needed and give them time to go towards a more harmonized approach where necessary in the future.

BIPAR: There is also further debate about insurance PRIPs. Can you please give us an update?

KVH: We have not decided yet how to deal specifically with insurance PRIPs. I believe we should put them in a separate chapter of the Directive. Whether that chapter will then have “delegated powers”, depends on the developments in the area of PRIPs and MiFID. The PRIPs consultation ran out yesterday. My colleagues are collecting now all the details. They will work on a common text that can be used for all PRIPs in terms of precontractual disclosure and that will lead to the development of a KIID (Key Investor Information Document), something similar to what they have in UCITS. What is the legal form that this piece of legislation will take? There is a certain pressure to use a Regulation for that purpose, which will have the advantage of being the same everywhere. With a Directive, there is a risk of having a lot of differences as a result of the implementation in national law.

BIPAR: The MiFID consultation on the revision will end on 2 February. Any interaction with insurance ?

KVH: My MiFID colleagues within the Commission have their own agenda based on the financial crisis. They also want to broaden the scope of MiFID, to cover, for instance, structured bank deposits, to reinforce investor protection dealing with conflicts of interests and so on. We will have a special chapter in the IMD II which deals with these selling rules for PRIPs insurance products. It is important that we have a coherent approach. Are we going to have a kind of KIID for non-PRIPs insurance products? That is not being thought about for the moment. We are focusing in terms of precontractual disclosure primarily on PRIPs insurance products.

BIPAR: Can you also give us a quick insight in what is going on in the field of Solvency II ?

KVH: Solvency II is the biggest reform in insurance regulation in the last 30 years. What we intend to introduce is the most sophisticated solvency regime in the world. By saying that, I already point to the consequences of the introduction of this regime for the insurance market. The preparation of this regime goes over several stages. We have just concluded the 5th Quantitative Impact Study. (QIS 5). About 70% of the insurance markets in Europe have participated in QIS 5, which is amazing and shows the commitment of the industry for this regime. We are in the process of analysing the results of QIS 5. There are clearly areas where we need to improve the standard formula for the calculation of the Solvency I Capital Requirement (SCR). This is why we needed this QIS exercise. The development of a standard formula for 5000 insurance and reinsurance undertakings is a formidable task, considering the great variety of insurance products and practices in Member States.

Now that the last major quantitative impact study has been completed, we will work in three areas. Firstly, we are going to make the system less complex. For the final regime, we can start by excluding for instance a number of calculations that clearly are too complex and do not bring the intended information. Secondly, simplification is an important issue with regard to SMEs, we must make an effort to introduce more proportionality to make sure that we do not have a consolidation of the market, because that is not the intention. Thirdly, we want transitional provisions because we have seen in QIS5 that if you move close to the final regime, that the consequences of the introduction of this new regime on specific products or markets could be quite dramatic, creating for instance shifts in investment patterns. We do not want a disruption of markets. We need to have a smooth transition, so that people can plan ahead and new products can come up taking into account the new realities of the new legislation.

We hope to complete the implementing measures by summer time. Meanwhile, we have the negotiations of Omnibus II, which is taking more time than what we had envisaged. We will not carry out any other major QIS exercises.

BIPAR: Any final message to BIPAR and its members ?

KVH: We have a heavy agenda, important issues for your profession, a lot has to be decided, uniform positions from BIPAR representing the views of the profession make our lives and your lives easier. It is important that you have clear arguments. We should not forget that the consumer in the financial services area needs good professional advice and if you are going to deliver that, you have a bright future Ladies & Gentlemen. Let's us work on that together.

BIPAR: Thank you very much for this interview.
