

## Dr. Werner Langen

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*Dr. Werner Langen is EP Rapporteur for the Insurance Mediation Directive (IMD) recast proposal.*

*He is a German EPP member of the European Parliament. He is a member of the Parliament's Committee on Economic and Monetary Affairs (ECON).*

### **Do you believe that a revision or a recast of the IMD was necessary?**

According to the EU Commissioner Barnier, the aim of the revision is the internationally promised regulation of the financial markets, also in the insurance area ("every product, every market, every participant should be regulated") and the creation of the same competition conditions for the distribution of insurance products as well as further improvement of consumer protection.

However, I am not entirely sure that the recast was necessary. New texts should only be proposed after a thorough check of the state of the current implementation shows that a recast is really needed.

In the EU, there are currently approximately one million insurance intermediaries who are mainly SMEs. Overregulation is not desirable and would lead to the reduction of providers and of options for private customers. It is important that the principle of the balance between consumer protection and market efficiency is kept. The administrative burden for SMEs must correlate with the risk and with the complexity of an insurance product and customer type. It is important to take a proportionate approach and to take the road of minimum harmonization.

### **What is the timing of the process at EP level?**

The vote on my report in the ECON Committee is scheduled for March 2013 and although this could move a bit, I am determined to have a vote in Plenary before the summer recess 2013. The trialogue could start earlier but I prefer in general to have a clear EP position before starting the trialogue. It may also be decided that a public hearing is organized in the EP on IMD II by the end of the year.

### **What are the main issues that you intend to focus on in your report? Which provisions of the IMD need to be amended?**

I intend to focus my report on the articles regarding the scope, the registration and simplified registration, the education and permanent education of insurance intermediaries, the conflict of interest and insurance investment products.

Regarding **the scope**, I agree with BIPAR that it is important to ensure that there exists a level playing field, the same rules for the same activity. At this stage I am not convinced that claims handling or loss assessment when not carried out by an insurance intermediary for the contract offered, should be in the scope of the recast IMD. The abolition of the exception for the distribution of travel insurance as ancillary activity should be checked against the proportionality of the proposal and the previous experiences with IMD I.

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Regarding **registration and declaration procedures**, the EP will have to find a solution balancing consumer protection and risk and between administrative burden and the level playing field.

**Qualification** of insurance intermediaries is key. It seems to make sense to require more qualification, permanent education - possibly organized by associations and companies and possibly non-bureaucratic - for more complex products.

The suggested provisions on **conflicts of interest and transparency** represent one of the essential changes of the revised Directive. The Commission sees here an obligation for the intermediary to disclose the nature and the amount of his remuneration, as well as a disclosure of the amount of the variable remuneration by employees of insurance companies. For life insurance products, this obligation should apply as of the entry into force of the Directive and for non-life upon request, with a transition period of five years before full transparency.

It is a fact that the conclusion of the European Commission's impact assessment regarding transparency stated that a large majority of stakeholders is against as the data are considered to be superfluous and confusing for consumers. In addition, difficult technical questions arise, as to whether it is possible to find a basis for calculation which creates comparability between the remuneration systems of the different distribution channels. A disclosure of the nature and the source of the remuneration and of the calculated costs for conclusion and distribution might be a better alternative.

I think that bans on commission do not bring better consumer protection. Moreover, I don't think that copying the MiFID proposals into the IMD would be appropriate.

In chapter VII of the proposal, the European Commission elaborates on additional demands for consumer protection in connection with **insurance investment products**. The wording corresponds to some articles of the MiFID II proposals. This leads to the question whether the insurance investment products are really comparable with pure investment products and should be subject to the same rules.

Lastly, a ban on **tying practices** is maybe excessive. Products that protect people from key risks should remain available. But it is also crucial that consumers are well informed about the tying practices.

**The proposal contains some proposed delegated acts. What are your views on them?**

The Commission's proposal foresees a list of delegated acts that cover important elements of the Directive (e.g. definition of necessary knowledge and ability of intermediaries, criteria for the basis of calculation of the commission, measures on avoiding, managing and disclosure of conflicts of interest, information and reporting duties vis-à-vis the clients).

The question can be raised whether the proposed delegated acts comply with the requirements of article 290 of the Treaty. Moreover, attention has to be given to the necessary resources for EIOPA to accomplish its tasks, transferred in the framework of delegated acts.

Delegated acts (introduced since the Lisbon Treaty) should not, via a backdoor, lead to maximum harmonization.

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