

Invitation to comment on a proposed review of the Payment Protection Insurance Market Investigation Order 2011

2 August 2018

Introduction

1. The CMA is proposing to launch a targeted review of certain aspects of the Payment Protection Insurance Market Investigation Order 2011 (the Order) in response to the introduction of the Insurance Distribution Directive.¹
2. The Order requires, as a small part of an interlocking package of remedies, that PPI providers must provide policy holders with a policy summary which contains a summary of the PPI policy in a prescribed format. The Insurance Distribution Directive, when transposed into UK law, will mandate that PPI providers must provide policy holders with an Insurance Product Information Document (IPID). The policy summary and the IPID contain very similar information.
3. The CMA is proposing to review the Order to assess whether the information requirements of the Order remain appropriate in light of the requirements of the Insurance Distribution Directive. The purpose of such a review would be to ensure consumers continue to receive appropriate information and that suppliers of PPI have clear and consistent obligations for the information they need to provide to consumers. The CMA proposes that this review will focus exclusively on this matter and it does not propose to carry out a full review of the Order at this time.
4. The CMA invites comments from parties affected by the Order on whether this proposed review should be launched and on the possible substantive changes under consideration.

¹ DIR (EU) 201697.

Background

5. The CMA has a duty under the Enterprise Act 2002 to keep under review Orders and undertakings, and from time to time, to consider reviews of such Orders and Undertakings.²
6. In relation to this Order, the CMA notes that Article 4.10 (b) of the Order requires PPI Providers to send to their policyholders an Annual Review (a document which reminds customers of their ability to cancel or switch and summarises information relating to their PPI policy for the preceding 12 calendar months) together with a policy summary. Article 4.14 of the Order defines the policy summary as, “*a document containing a summary of the PPI policy in the format and containing the information in the Financial Conduct Authority’s Insurance Code Of Business Sourcebook (ICOBS) 6 Annex 2*”.³
7. This obligation extends to all PPI policies currently in force, including policies in run-off.⁴ In summary this means that all PPI policyholders should get an annual review and policy summary for each PPI policy held.
8. The Insurance Distribution Directive, in Article 20, specifies that prior to the conclusion of a general insurance contract, which includes PPI, the customer must be provided with certain relevant information about the insurance product in the form of an IPID. This includes when a new contract is concluded at renewal. This requirement will apply from 1 October 2018.
9. Following the implementation of the Insurance Distribution Directive, the format for the IPID has been inserted at ICOBS 6 Annex 3.

Possible change of circumstances

10. The CMA considers that there is a realistic prospect that the implementation of the Insurance Distribution Directive represents a change of circumstances relevant to the Order.⁵ The possible change of circumstances is that, in the

² The CMA has a statutory duty in Schedule 24 of the Enterprise Act 2002 to keep under review undertakings and orders. From time to time, the CMA must consider whether, by reason of a change in circumstances:

(a) undertakings are no longer appropriate and need to be varied, superseded or released; or
(b) an order is no longer appropriate and needs to be varied or revoked.

Responsibility for deciding on variation or termination of undertakings or orders lies with the CMA.

³ The relevant information requirements are provided in [The Payment Protection Insurance Market Investigation Order 2011](#).

The Financial Conduct Authority’s ICOBS rules for regulating general and protection insurance products sales can be found on the FCA’s website

<https://www.handbook.fca.org.uk/handbook/ICOBS/6/Annex2.html?date=2015-09-01>

The overall aim of ICOBS is to ensure that customers are treated fairly by insurance providers.

⁴ Run-off is a description of the remaining policies of a PPI provider which has stopped selling new PPI policies.

⁵ CMA11 Remedies: Guidance on the CMA’s Approach to the Variation and Termination of Merger, Monopoly and Market Undertakings and Orders, paragraph 3.10.

absence of a review and a variation of the Order, the introduction of the IPID will mean that consumers will receive two policy documents – in different formats at different stages of their contract - containing substantially the same information. This could be confusing for consumers and unnecessarily burdensome for providers.

Substantive changes under consideration

11. If the CMA's proposed review were to confirm the above as a change of circumstances such that this aspect of the Order is no longer appropriate and it is therefore necessary to vary the Order, the CMA would need to consider the nature of such a variation.
12. In order to facilitate the CMA's review, it invites views at this stage on two possible options for aligning the information requirements of the PPI Order to take account of the introduction of the IPID under the Insurance Distribution Directive. These options, which are without prejudice to the outcome of any review, would aim to ensure that PPI customers get consistent information on their PPI policies; and ensure that PPI Providers can continue to comply with the requirements of the Insurance Distribution Directive and the Order without the unnecessary burden of having to produce both IPIDs and policy summaries.

Option one

13. Option one involves a simple replacement of text. It would replace references in the Order to the Policy Summary with IPID. The result of such a change would be that all new, renewable and existing PPI policies will require an information document in the format of the IPID6 to be sent to policy holders on an annual basis in accordance with Article 4.10(b), and all PPI providers will be required by the Order to provide information to customers in the IPID format annually.
14. If the CMA were to decide to implement this option as a result of its review, this could potentially be achieved by making the following amendment to Article 4.14(d) of the Order:

Text which currently reads:

“policy summary means a document containing a summary of the PPI policy in the format and containing the information in ICOBS 6 Annex 2”

would be replaced with the following text:

⁶ In the FCA's ICOBS 6 Annex 3.

“policy summary means a document containing a summary of the PPI Policy in the format and containing the information in ICOBS 6 Annex 3”

15. This option would ensure that every PPI customer would get the same type of information in the IPID format, at all stages of their contract. However, we note that this would require those providers that only have policies in run-off to produce a new document in the new IPID format.

Option two

16. Option two seeks to make a similar change but makes allowance for providers of policies in run-off. As in Option one, all new and renewable PPI policies will require an information document policy summary in the format of the IPID to be sent to policy holders on an annual basis in accordance with Article 4.10(b). However, this option would permit providers with policies in run-off to continue to send to its existing policy holders the annual policy summary in the existing format.⁷
17. If the CMA were to decide to implement this option, as a result of its review, this could potentially be achieved by making the following amendment to Article 4.14(d) of the Order:

Text which currently reads:

“policy summary means a document containing a summary of the PPI policy in the format and containing the information in ICOBS 6 Annex 2”

would be replaced with the following text:

“policy summary means a document containing a summary of the PPI Policy in the format and containing the information in ICOBS 6 Annex 3, except for PPI Providers of run-off policies that will continue to provide information in the ICOBS 6 Annex 2 policy summary format”.

The CMA notes that the existing policy summary format and the IPID format are similar in the types of information required and this option minimises the burden on providers of run-off policies. However, using two similar formats could create some limited inconsistencies in the way information is provided to consumers with run-off policies compared to new or renewable policies.

18. In the event that the CMA concludes that there has been a change of circumstance such that this aspect of the Order is no longer appropriate and it is therefore necessary to vary the terms of the Order, the CMA will explore during

⁷ ICOBS 6 Annex 2 policy summary.

its review of the Order, which of these potential options would be most suitable for the continued delivery of benefits to consumers while minimising the burden on providers. The CMA notes that option one is a more straightforward solution offering greater clarity to customers, although it might involve some additional costs for policies in run off relative to option two.

19. The CMA's review will take into account comments from relevant stakeholders on these two options and the possibility for making alternative changes to the Order to achieve the CMA's aims.

Prioritisation principles

20. In order to make the best use of its resources, the CMA needs to ensure that it makes appropriate decisions about which projects and programmes to undertake across its areas of responsibility. The CMA will be assessing the information available and the current circumstances in reaching its decision on whether to launch a review of the Order in the light of its published [prioritisation principles](#) as described below. These principles are impact, strategic significance, risk and resources. We consider each of these in turn below.

- Concerning the impact of reviewing this Order, the CMA aims to:
 - make sure consumers continue to receive valuable information in a consistent format by PPI providers, and
 - minimise unnecessary regulatory burdens on business, by keeping our remedies up to date with regulatory changes and ensuring they are simple to follow and clear for providers on their obligations through aligning the PPI providers' obligation under the Order to provide information to policyholders with very similar responsibilities under an EU Directive.
- The CMA considers this review to represent a strategic priority, as part of its overall obligation to keep remedies under review. In addition, the PPI sector remains a significant market for UK consumers in which serious concerns have arisen and the CMA considers the retention and updating of the Order to be necessary in delivering benefits for consumers.
- In relation to risk, the CMA considers this limited-scope review to be relatively low risk and is seeking the views of interested parties in advance of a potential launch to ensure it is aware of the views of providers and ensure they are aware of possible options for changes to the Order if a review were to confirm that there had been a change of circumstance that meant that the current wording of the Order was no longer appropriate.

- The CMA considers that conducting this targeted review would involve a modest amount of resource and would represent an efficient way to establish whether there is a need to vary the terms of the Order and if so, to clarify the obligations for suppliers of PPI, while maintaining the information provision for consumers.

Stakeholder views

21. The CMA is seeking views from interested parties on the potential review of the Order and the information set out in this invitation to comment.
22. Those responding should provide their views, supported with relevant evidence where possible, in writing to the CMA either by email or by post as set out below:

PPI Remedy Review
Competition and Markets Authority
RBFA - 6th Floor North East
Victoria House
37 Southampton Row
London WC1B 4AD

Email: remedies.reviews@cma.gsi.gov.uk

Responses should be received by the CMA by 5pm on **Thursday 23 August**.