

Title: Implementation of the EU Insurance Distribution Directive (IDD) IA No: Lead department or agency: HM Treasury Other departments or agencies: Financial Conduct Authority (FCA)	Impact Assessment (IA) Date: 12/12/2016 Stage: Consultation Source of intervention: EU Type of measure: Secondary Legislation Contact for enquiries: Edward Bayes, HM Treasury, 020 7270 1819 edward.bayes@hmtreasury.gsi.gov.uk
Summary: Intervention and Options	RPC Opinion:

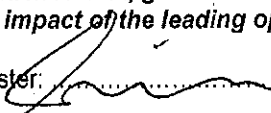
Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Three-Out?	Measure qualifies as In (QRPs/NQRP)
£0m	£0m	£0m	Yes	In (QRPs/NQRP)
What is the problem under consideration? Why is government intervention necessary? The Insurance Distribution Directive (2016/97/EU) ('IDD') sets the regulatory framework for the sale of insurance in the EU. It was published in the Official Journal to the EU on 2 February 2016 and updates and replaces the Insurance Mediation Directive (2002/92/EC) ('IMD'), which came into force in 2005. The Government is required to have implemented IDD in the United Kingdom by 23 February 2018 to meet its treaty obligations and avoid the risk of facing legal proceedings as a result of infraction. IDD aims to improve consumer protection and create a level playing field among insurance distributors across the EU. Like IMD, IDD is a minimum harmonising Directive meaning some areas of IDD give Member States discretion on what businesses can be brought in to/out of the scope of regulation. This IA focuses on those aspects of IDD that the Government will need to legislate on in order to ensure IDD's requirements are fully implemented in the UK. The Financial Conduct Authority (FCA) will be responsible for implementing the majority of IDD through its rules, and will consult and produce a separate cost benefit analysis in line with its statutory obligations. The Government will publish a joint consultation with the FCA in early 2017 on our proposed approach to implementing IDD. This IA and the FCA's cost benefit analysis will be published alongside this consultation.				

What are the policy objectives and the intended effects? In implementing IDD, the Government's policy objectives are to achieve compliance with IDD, ensuring a proportionate balance of impact on business and consumer protection in the areas where IDD gives Member States discretion on what businesses can be brought in to/out of the scope of regulation, while minimising any negative impact on UK industry in terms of their costs and competitiveness. At this stage, we do not have any monetised costs and benefits as businesses are not able to provide data until we publish the consultation. However, we have provided estimates of where we anticipate the costs and benefits will fall and will use the consultation to gather data to contribute to our analysis. We will then provide monetised costs and benefits in the final stage IA which will be published after the consultation.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base) The Government has considered 3 options: <ul style="list-style-type: none"> Option 1 – legislating to ensure compliance with IDD while maintaining existing consumer protection standards in areas where word for word transposition (known as 'copy-out') would result in consumer detriment Option 2 – word for word transposition (known as 'copy-out') of IDD's requirements into UK legislation Option 3 – do nothing Option 3 has not been assessed in detail as it would put the UK in breach of its obligations under EU law. This IA will assess Options 1 and 2 against the current regime. Option 1 is our preferred policy option as it offers a way for Government to meet the requirements of IDD, while also achieving a proportionate balance between burdening businesses and benefitting consumers.

Will the policy be reviewed? It will be reviewed. If applicable, set review date:						
Does implementation go beyond minimum EU requirements?				Yes		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro Yes	< 20 Yes	Small Yes	Medium Yes	Large Yes	
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: n/a		Non-traded: n/a	

I have read the IA and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister: 

Date:

1/2/17

Summary: Analysis & Evidence

Policy Option 1

Description: Legislating to ensure compliance with IDD while maintaining existing consumer protection standards in areas where word for word transposition (known as 'copy-out') would result in consumer detriment

FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: n/a

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional		Optional	Optional
High	Optional		Optional	Optional
Best Estimate	n/a		n/a	n/a

Description and scale of key monetised costs by 'main affected groups'

No monetised costs at this stage. We expect there to be one-off costs for the insurance sector, such as insurers and brokers, through re-training staff, including all customer-facing employees; and making changes to established practices, such as amending documentation. The Government will seek to gather evidence during the consultation to provide a fuller picture of these in the final stage IA.

Other key non-monetised costs by 'main affected groups'

The removal from FCA regulation of those firms who merely provide information on insurance contracts/potential policyholders may also lead to consumer detriment at the FCA would no longer have oversight of such firms. The Government will seek to gather evidence during the consultation to provide a fuller picture of these costs in the final stage IA.

BENEFITS (£m)	BENEFITS (£m)		BENEFITS (£m)	BENEFITS (£m)
Low	Low	Low High Best Estimate	Low	Low
High	High		High	High
Best Estimate n/a	Best Estimate n/a		Best Estimate n/a	Best Estimate n/a

Description and scale of key monetised benefits by 'main affected groups'

No monetised benefits at this stage. A small group of businesses that sell insurance products as an add-on, such as ticket cancellation cover, will no longer be subject to FCA regulation and associated compliance costs. Principal insurers/brokers may benefit from no longer having to register those firms who provide information on their products with the FCA. The FCA may benefit through having fewer businesses to regulate and oversee. Insurance distributors operating cross-border in the EU may benefit from reduced administrative costs resulting from changes to the process for notifying regulators of their intention to passport services. The Government will seek to gather evidence during the consultation to provide a fuller picture of these in the final stage IA.

Other key non-monetised benefits by 'main affected groups'

Consumers may benefit from a broader range of insurance products in areas where FCA regulation will no longer apply, such as ticket cancellation cover. The Government will seek to gather evidence during the consultation to provide a fuller picture of these in the final stage IA.

Key assumptions/sensitivities/risks	Discount rate (%)	n/a
<ul style="list-style-type: none"> Our assessment focuses on those aspects of IDD the Government will need to legislate on in order to ensure IDD's requirements are fully implemented in the UK. The FCA will be responsible for implementing the majority of IDD through its rules, and will produce a separate cost benefit analysis in line with its statutory obligations. In making our assessment we will assume 100% compliance, and all costs and benefits are estimated to the best of our ability given the lack of data available from industry and others. The Government will publish a joint consultation with the FCA at the beginning of 2017 on our proposed approach to implementing IDD. We will use this consultation to gather data to provide a fuller picture of these costs and benefits in the final stage IA. 		

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs: n/a	Benefits: n/a	Net: n/a	Yes	QRPs/NQRP

Summary: Analysis & Evidence

Policy Option 2

Description: Word for word transposition (known as 'copy-out') of IDD's requirements into UK legislation without amendment

FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: n/a
COSTS (£m)		Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)	
Low		Optional	Optional	Optional	
High		Optional	Optional	Optional	
Best Estimate		n/a	n/a	n/a	

Description and scale of key monetised costs by 'main affected groups'

No monetised costs at this stage. As IDD does not map neatly onto the UK regulatory framework, Option 2 would require a complete restructuring of the legislative framework that applies to insurance sales. For example, terms and definitions in UK law will need to be updated to be consistent with IDD. This would mean significant one off familiarisation costs for the insurance sector, such as insurers and brokers, through re-training staff, including all customer-facing employees; and making changes to established practices, such as amending documentation. It would also mean that the regulatory framework for insurance would be inconsistent with the approach taken for other financial services sectors, creating uncertainty for firms and the FCA. We expect there will also be ongoing costs associated with monitoring and oversight of firms by the FCA and through updating its rulebook to account for changes in language. The Government will seek to gather further evidence during the consultation.

Other key non-monetised costs by 'main affected groups'

We expect there will be significant non-monetised costs to consumers as some businesses that sell insurance products as an add-on alongside other goods and services would no longer be regulated by the FCA, including travel providers that sell travel insurance products and car dealers selling motor warranties. This would mean such businesses' customers would no longer have recourse to the Financial Ombudsman Service (FOS) and other consumer protections. The removal of those firms who merely provide information and their principals from FCA regulation may also lead to consumer detriment as the FCA would no longer have oversight of such firms. The Government will seek to gather further evidence during the consultation.

BENEFITS (£m)	BENEFITS (£m)		BENEFITS (£m)	BENEFITS (£m)
Low	Low	Low High Best Estimate	Low	Low
High	High		High	High
Best Estimate	Best Estimate	Best Estimate	Best Estimate	Best Estimate

Description and scale of key monetised benefits by 'main affected groups'

No monetised benefits at this stage. We expect the main monetised benefit will be to some businesses that sell insurance products as an add-on alongside other goods and services that would no longer be regulated by the FCA, such as travel providers that sell travel insurance products and car dealers selling motor warranties. We expect introducers and their principals may also benefit from changes to the scope of what businesses are regulated by the FCA. The FCA may benefit through having fewer businesses to regulate and oversee. We also expect insurance distributors operating cross-border in the EU may benefit from changes to the process for notification for passporting that may reduce their administrative burden. The Government will seek to gather further evidence during the consultation.

Other key non-monetised benefits by 'main affected groups'

We expect more consumers may purchase insurance products in the areas where FCA regulation will no longer apply, such as ticket cancellation cover and travel insurance products sold by travel providers as an add-on. The Government will seek to gather further evidence during the consultation.

Key assumptions/sensitivities/risks		Discount rate (%)	n/a
<ul style="list-style-type: none"> Our assessment focuses on those aspects of IDD the Government will need to legislate on in order to ensure IDD's requirements are fully implemented in the UK. The FCA will be responsible for implementing the majority of IDD through its rules, and will consult and produce a separate cost benefit analysis in line with its statutory obligations. In making our assessment we will assume 100% compliance, and all costs and benefits are estimated to the best of our ability given the lack of data available from industry and others. The Government will publish a joint consultation with the FCA at the beginning of 2017 on our proposed approach to implementing IDD. We will use this consultation to gather data to provide a fuller picture of these costs and benefits in the final stage IA. 			

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs: n/a	Benefits: n/a	Net: n/a	No	NQRP

Evidence Base

Introduction

1. The Insurance Distribution Directive (2016/97/EU) ('IDD') sets the regulatory framework for the sale of insurance in the EU. It was published in the Official Journal to the EU on 2 February 2016 and updates and replaces the Insurance Mediation Directive (2002/92/EC) ('IMD'), which came into force in 2005.
2. On 23 June 2016, the EU referendum took place and the people of the United Kingdom voted to leave the European Union. Until exit negotiations are concluded, the UK remains a full member of the European Union and all the rights and obligations of EU membership remain in force. During this period the Government will continue to negotiate, implement and apply EU legislation. The outcome of these negotiations will determine what arrangements apply in relation to EU legislation in future once the UK has left the EU. In line with this policy the government intends to transpose and implement IDD to schedule, and by 23 February 2018. IDD aims to improve consumer protection and create a level playing field among insurance distributors across the EU. Like IMD, IDD is a minimum harmonising Directive meaning some areas of IDD give Member States discretion on what businesses can be brought in to/out of the scope of regulation.
3. IDD applies to all persons or institutions that distribute insurance products, including insurers and intermediaries such as brokers. According to data compiled by the Association of British Insurers (ABI), the UK insurance and long term savings industry had a premium income of c.£276 billion in 2014, and contributed c.£29 billion to UK GDP in 2012, equating to more than a fifth of the total gross value added for the UK financial services industry. It employs around 334,000 individuals, of which around a third are employed directly by providers with the remainder in auxiliary services such as broking. ABI figures show that as of 2016, brokers arrange 54% (£22 billion) of all general insurance businesses and 79% (£10.7 billion) of all commercial insurance business.
4. As regards who purchases insurance, of the 26.7 million households in the UK in 2013, 20.4 million had contents insurance, 20.1 million had motor insurance, 17 million had buildings insurance and 1.9 million had private medical insurance. For long term savings products, 5.7 million had whole of life assurance, 2.3 million had a personal pension, 0.6 million had term life assurance and 0.3 million had income protection.
5. This IA focuses on those aspects of IDD that the Government will need to legislate on in order to ensure IDD's requirements are fully implemented in the UK. The FCA will be responsible for implementing the majority of IDD through its rules, and will consult and produce a separate cost benefit analysis in line with its statutory obligations. The Government will publish a joint consultation with the FCA at the beginning of 2017 on our proposed approach to implementing IDD. This IA and the FCA's cost benefit analysis will be published alongside this consultation.
6. If a business is deemed to fall within the scope of IDD, it will have to be regulated by the FCA. Practically, this means that it will have to register with the FCA and adhere to governance and consumer protection requirements set out in the FCA rulebook, with associated compliance costs. As well as FCA oversight, regulation ensures that consumers have recourse to the Financial Ombudsman Service (FOS). The decision of the FOS is binding on regulated firms up to £150,000.
7. Examples of the main costs of FCA regulation to businesses include:
 - Direct FCA fees
 - Costs arising from specific requirements on FCA regulated firms, such as providing reports to the FCA
 - Levies to the FOS and Financial Services Compensation Scheme (FSCS), a compensation fund of last resort
 - FOS case fees
 - Indirect costs associated with being within the FOS jurisdiction (such as payment of awards, and costs of monitoring/compliance with FOS decisions)
 - Costs involved in having a fully staffed compliance function
 - Restrictions on some trading practices (such as the ban on *opt-out* selling)
8. Implementing IDD will require removing some firms or activities from FCA regulation. The FCA advise that this is not likely to lead to a sudden reduction in costs to such businesses in the short term as savings, such as reduced monitoring and stopping FCA fees, may not outweigh costs, such as changes to systems and documentation. However, it may be the case that the benefits are greater for new businesses.
9. The FCA also advise that unregulated businesses who do business with regulated businesses may aim to comply with FCA rules as best practice. For example, a firm who primarily handles claims for insurers may generally try to comply with FCA conduct rules and principles as insurers may be more likely to do business with them if they do.

10. This IA will first set out the current regulatory framework for insurance distribution in the UK and use this as a baseline to assess changes resulting from implementing Options 1 and 2.
11. Second, it will set out Option 1 – legislating to ensure compliance with IDD while maintaining existing consumer protection standards in areas where word for word transposition (known as 'copy-out') would result in consumer detriment. This is the Government's preferred option as it offers a way to meet the requirements of IDD while also achieving a proportionate balance between burdening businesses and benefitting consumers.
12. Third, it will provide a description of Option 2 – word for word transposition of IDD's requirements into UK legislation without amendment – in order to provide a comparator. It is not possible to assess Option 2 in as much detail as Option 1 as Option 2 would require a complete restructuring of the legislative framework that applies to insurance sale, resulting in significant one off familiarisation costs for the insurance sector, despite ultimately leading to the same regulatory outcome as Option 1.
13. This IA does not assess Option 3 – do nothing – as the Government cannot do nothing as this would put the UK in breach of its obligations under EU law, creating the risk of facing legal proceedings as a result of infraction.

Proportionality – level of analysis used and approach to analysis of costs and benefits

14. In compiling this IA, we have taken into account the Better Regulation Framework Manual's guidance, which states that the resource invested in undertaking an IA should be proportionate. There are a number of factors we have taken into account when assessing the level of resource to invest in this analysis.
15. First, the policy is not novel or contentious. We are required to implement IDD under EU law and the UK achieved all its key policy objectives during negotiations. As such, there is broad support from industry stakeholders for the final political agreement.
16. Second, the monetised impact on business cannot be assessed by the Government at this stage as businesses are not able to provide data until we publish the consultation. Consequently, this IA is focused on the aspects of the regime on which there is certainty, namely those aspects of IDD where the Government will need to legislate in order to ensure IDD's requirements are fully implemented in the UK. We have carried out descriptions of who will be affected (level 1 analysis), and the estimate of where we anticipate impacts will fall (level 2 analysis) as set out in the Better Regulation Framework Manual's guidance on proportionate analysis. Our sources of evidence have been derived through discussions with industry experts including the FCA, the ABI and the British Insurance Brokers' Association (BIBA), a UK insurance broker trade body. This has been supported by internal analysis to estimate the changes that firms and consumers may experience. We will use the consultation to gather data to contribute to our analysis, and will provide monetised costs and benefits in the final stage IA which will be published after the consultation.
17. Third, we are at the pre-consultation stage of policy development and will seek further detail from stakeholders in the consultation.
18. Given the above, this IA has been carried out to the best of our abilities given the limitations of available data in a manner proportionate to the impact of the policy at this stage, and with the knowledge that the RPC will see further IAs at later stages of the development of the regulation.

Policy objectives

19. In implementing IDD, the Government's policy objectives are to achieve compliance with IDD, ensuring a proportionate balance of impact on business and consumer protection in the areas where IDD gives Member States discretion on what businesses can be brought in to/out of the scope of regulation, while minimising any negative impact on UK industry in terms of their costs and competitiveness.
20. At this stage, we do not have any monetised costs and benefits as businesses are not able to provide data until we publish the consultation. We will therefore use the consultation to seek stakeholders' views on our estimates of where the costs and benefits will fall and to gather data to contribute to our analysis. We will then provide monetised costs and benefits in the final IA which will be published after the consultation.

Baseline – Current regulatory framework for insurance distribution in the UK

21. This section will set out the current regulatory framework for insurance distribution in the UK to use as a baseline to assess changes resulting from implementing Options 1 and 2.
22. The current regulatory framework for insurance distribution in the UK is largely derived from IMD, which was implemented in 2005. IMD is a minimum harmonising Directive. This means IMD allows Member States discretion on what businesses can be brought in to/out of the scope of regulation. IMD provides a high level framework for the regulation of insurance sales, rather than detailed conduct rules. For example, IMD requires that Member States implement rules requiring insurance intermediaries to conduct a "demands and needs test" when selling insurance products. However, it is up to individual Member States to design the conduct rules that fulfil these high level requirements. The Government legislated to ensure IMD's requirements are fully implemented in the UK and the FCA implemented the majority of IMD through its rules.

23. The types of persons or institutions that the UK brought into the scope of FCA regulation to comply with IMD are those that distribute insurance products, such as agents and brokers.
24. Some businesses are explicitly excluded from regulation. These are:
- businesses with another professional activity, such as tax experts or accountants, who provide advice on insurance cover on an incidental basis in the course of that other professional activity
 - businesses who merely provide information of a general nature on insurance products, provided that the purpose of that activity is not to help the customer conclude or fulfil an insurance or reinsurance contract
 - the professional management of claims for an insurance or reinsurance undertaking
 - the loss adjusting and expert appraisal of claims
 - businesses that sell simple and low value insurance products as an add-on to other goods and services (under certain strict conditions)
25. IMD did not require the regulation of travel agents selling travel insurance or car dealers selling motor warranties as add-on products. However, following evidence of poor practices and consumer detriment, the Government decided to bring such businesses into the scope of regulation.

Option 1 – legislating to ensure compliance with IDD while maintaining existing consumer protection standards in areas where word for word transposition (known as 'copy-out') would result in consumer detriment

26. Option 1 is the Government's preferred option as it offers a way to meet the requirements of IDD while also achieving a proportionate balance between burdening businesses and benefitting consumers. It employs word for word transposition (known as copy-out) wherever possible, but tailors the approach to the UK market where necessary by maintaining existing standards in areas where copy-out would adversely affect UK interests.
27. This section will first set out the changes between current regulatory framework for insurance distribution in the UK and Option 1 before setting out the costs and benefits of these changes on UK businesses, consumers and others.

Changes between current regulatory framework for insurance distribution in the UK and Option 1

Businesses that sell insurance products as an add-on alongside other goods and services

28. Under IMD there is a general rule that businesses that sell simple and low value insurance products as an add-on to other goods and services are exempt from FCA regulation. For example, mobile phone retailers can sell mobile phone insurance alongside mobile phones without registering with the FCA.
29. IDD broadens this exemption in a number of areas by:
- removing the requirement under IMD that add-on products must require no more than the knowledge of the policy coverage in order to qualify for the exemption from regulation. From pre-consultation engagement with the FCA and other key stakeholders, we understand that practically this is unlikely to have much impact as the majority of policies sold as an add-on to other goods and services are (and will continue to be) standard form contracts, the terms of which cannot be negotiated or varied. This means that the only information needed to sell them is knowledge of the policy cover and price. Examples include breakdown/loss/theft cover for mobile phones, other electrical gadgets and furniture. Add-on insurance products that could be seen by consumers to be more complex are brought into regulation for other reasons (see paras 37 – 38) such as travel insurance sold as an add-on to holidays, which are seen as complex because they typically cover a wider range of risks than most other types of insurance and commonly include "optional extras" such as winter sports cover
 - removing the requirement under IMD that add-on products must have a term of less than five years in order to qualify for the exemption from regulation; and increasing the requirement under IMD that add-on products must have a premium of less than €500 per annum in order to qualify for the exemption from regulation, to €600
 - removing the requirement under IMD that businesses that sell insurance for the 'non-use of a service' as an add-on, such as rail providers and event organisers selling cancellation cover alongside tickets, are regulated. The FCA has limited market intelligence on which to base any advice on this issue. However, it's experience is that these products are usually low value (for example, cancellation cover for a rail ticket is typically under £15) and are often provided by firms who are out of scope of regulation for other reasons
30. Option 1 legislates to ensure compliance with these changes.

31. The Government will seek to gather evidence during the consultation on whether broadening the exemption creates any consumer protection risks, to provide a fuller picture of these in the final stage IA.

Firms providing information

32. IMD required the regulation of persons that receive commission for referring insurance business to principal insurers/brokers ("introducers"). In defining "insurance distribution" IDD removes from scope activities that relate to the mere provision of information on potential policyholders to insurers and insurance intermediaries (and vice-versa) – provided no further steps are taken to assist in the conclusion of an insurance contract.
33. Firms carrying out such activities are exempt from regulation in other financial services sectors, and there does not appear to be strong justification why regulation should be maintained in an insurance context.
34. Currently, most firms who provide information on insurance contracts/potential policyholders are not regulated directly by the FCA. Rather, the FCA regulates their activity through the principal insurer/broker. For example, a pet insurer that remunerates a vet for pet insurance referrals would need to register the vet as an introducer.
35. In the insurance context the firms are largely introducer appointed representatives (IARs). According to data from the FCA's FS Register there are approximately 12,000 IARs in the general insurance sector. This is likely to be the majority given introducing is excluded from regulation in other financial services sectors. IARs include vets, garages and online retailers.
36. The only other alternatives to IAR status is appointed representative (AR) status, which is unnecessary if all they are doing is providing information; or to be fully authorised, which involves considerable time, effort and cost. It is easier for a firm to be an IAR as it only needs to find a principal willing to take them on. From the perspective of the principal firm, IARs should be easy to supervise as their activities are limited.
37. The FCA report that there have been no recent cases of enforcement against firms who merely provide information on insurance/potential policyholders although its recent thematic review did find significant failings in the oversight of ARs (due to a lack of resources/abilities in principals), and the FCA have taken strong supervisory action as a consequence. In addition, new rules in IDD will strengthen the requirements on principals to oversee their products and distribution chains.

Changes to the way insurance distributors operate cross-border in the EU

38. IDD introduces changes to the process for notification for passporting, which may reduce the administrative burden for insurance distributors operating cross-border in the EU.

Travel providers and car dealers that sell insurance products as an add-on alongside other goods and services

39. Like IMD, IDD does not require the regulation of travel agents selling travel insurance or car dealers selling motor warranties as add-on products. Option 1 maintains FCA regulation of such businesses following evidence from the FCA of poor practices and consumer detriment in this sector.
40. While this goes further than what is strictly required by IDD, this will serve to maintain existing standards, so businesses will not be subject to additional requirements or associated costs.

Businesses that sell life assurance products as an add-on

41. IDD introduces an exemption from regulation for businesses that sell life assurance or liability risks that complements the good or service which the business provides as its principal professional activity. Such businesses are in scope of IMD and the current UK regulatory regime. Despite this exemption under IDD, Option 1 maintains the regulation of such businesses as the Government and the FCA is not aware of the existence of any such products, aside from potentially life assurance policies packaged with travel insurance which is regulated for other reasons (see paras 37 – 38). There are theoretical risks from exempting currently unknown products from regulation, and no perceived benefits. We will gather further information during consultation.
42. While Option 1 goes further than what is strictly required by IDD, as it maintains existing standards, businesses will not be subject to additional requirements or associated costs so the net regulatory effect is zero.

Definition of advice

43. IDD introduces a definition of advice that is absent from IMD. The definition is consistent with the definition of advice in the Markets in Financial Instruments Directive (Directive 2004/39/EC) ('MiFID'). The current definition of advice in the UK goes beyond the minimum standards required by MiFID. However, the Government consulted on amending the definition of advice to bring it in line with the definition set out in MiFID following the Financial Advice Market Review (FAMR). The Government is currently reviewing consultation responses and will publish an impact assessment prior to laying the order to amend the definition of advice, therefore this IA will not assess the effect of the introduction of a definition of advice in IDD.

Direct costs and benefits to business calculations (One-in, three-out)

44. The parts of Option 1 that involve a word for word transposition (known as 'copy-out') of IDD into UK legislation are out of scope for the purposes of one-in, three-out (OITO) as this involves the implementation of an EU Directive and does not add to existing costs on business other than in areas where this is required by the Directive.
45. The parts of Option 1 that maintain existing standards in areas where word for word transposition would result in detriment to existing consumer protection standards are in scope of OITO. However, as such areas maintain existing standards, and do not create any additional cost to businesses, the net regulatory effect is zero.

Monetised costs

46. There are no monetised costs at this stage.
47. We expect there to be one-off costs for the insurance sector, including brokers and insurers, who will need to familiarise itself with new rules through re-training staff including all customer-facing employees.
48. We expect there to be one-off costs for businesses who will have to make minor changes to established practices, such as amending documentation to reflect changes to the general exemption from FCA regulation for businesses that sell simple and low value insurance products as an add-on to other goods and services.
49. The Government will seek to gather evidence during the consultation to provide a fuller picture of these in the final stage IA.

Non-monetised costs

50. There may be non-monetised costs to consumers as some businesses that sell insurance products as an add-on alongside other goods and services, such as ticket cancellation cover, would no longer be regulated by the FCA. This would mean that such businesses' customers would no longer have recourse to the FOS if they feel that they have not been treated fairly, and other consumer protections.
51. There may be non-monetised costs to consumers from removing the activity of providing information on insurance contracts from FCA regulation, as the FCA would no longer have oversight of firms engaging in these activities. While removing these firms from the scope of FCA regulation would mean that it would lose oversight of this part of the sector, the FCA indicate it would still retain oversight of principal insurers/brokers, the businesses responsible for selling the insurance products and ensuring consumers are given appropriate information required to make an informed decision. In addition, new rules in IDD will strengthen the requirements on principals to oversee their products and distribution chains.
52. The Government will seek to gather evidence during the consultation to provide a fuller picture of these costs in the final stage IA.

Monetised benefits

53. There are no monetised benefits at this stage.
54. We expect insurance distributors operating cross-border in the EU may benefit from changes to the process for notification for passporting that may reduce their administrative costs.
55. Some businesses that sell insurance products as an add-on alongside other goods and services may benefit from being taken out of scope of FCA regulation as they would not be subject to compliance costs.
56. There may be monetised benefits to removing the firms who provide information on insurance contracts from the scope of FCA regulation. For example, currently administrative costs resulting from such regulation falls on the 'principal' insurer as it has to register such firms as IARs on the FCA register. While IARs do not experience direct regulatory costs from such regulation, such as fees and reporting, they may experience a monetised benefit from the removal of indirect regulatory costs such as in-house compliance teams and monitoring. Also the FCA will not engage with them directly as part of its supervision activities which may also create savings.
57. The Government will seek to gather evidence during the consultation to provide a fuller picture of these in the final stage IA.

Non-monetised benefits

58. Consumers may benefit from cheaper insurance products in the areas where FCA regulation will no longer apply, such as the sale of such as ticket cancellation cover sold as an add-on.
59. The Government will seek to gather evidence during the consultation to provide a fuller picture of these in the final stage IA.

Small and micro business assessment (SaMBA)

60. Like IMD, IDD does not require the regulation of travel agents selling travel insurance or car dealers selling motor warranties as add-on products. Option 1 maintains FCA regulation of such businesses on consumer protection grounds. This will not lead to additional monetised costs for small and micro businesses as such businesses are already required to comply with the relevant requirements.

61. Consideration has been given to whether the existing rules could be unwound to exempt SaMs selling motor warranties and travel insurance. We have concluded that this would pose an undue risk to consumer protection by, for example, meaning that many consumers would not have access to FOS and other consumer protections.
62. The Government will seek to gather evidence during the consultation to provide a fuller picture of the impact of the changes on SaMs in the final stage IA.

Wider impacts

63. HM Treasury has not identified any wider impacts resulting from this proposal, including on our responsibilities under the Equalities Act 2010.

Business Impact Target (BIT) status

64. This IA focuses on those aspects of IDD that the Government will need to legislate on in order to ensure IDD's requirements are fully implemented in the UK. Therefore we will consider the effects of these changes on the BIT.
65. IDD is not a qualifying regulatory provision (NQRP) as we are required to implement it under EU law, therefore it is out of scope of the BIT. In some areas, Option 1 goes beyond minimum EU requirements, meaning such measures are qualifying regulatory provisions (QRPs). However, as such areas maintain existing standards they do not create any additional cost to businesses so the net regulatory effect is zero.
66. The FCA will be responsible for implementing the majority of IDD through its rules, and will consult and produce a separate cost benefit analysis in line with its statutory obligations, which will include information on how it impacts the FCA's deregulatory budget.

Option 2 – word for word transposition (known as 'copy-out') of IDD's requirements into UK legislation without amendment

67. Option 2 replaces the current UK regulatory framework for insurance distribution with a word for word transposition (known as 'copy-out') of IDD. IDD does not map neatly onto the UK regulatory framework so Option 2 would require a complete restructuring of the legislative framework that applies to insurance sales. This is due to the fact that the FCA regulates the UK financial services industry by reference to certain "regulated activities" specified in the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (the "RAO") such as "effecting and carrying out contracts of insurance" and "arranging deals in investments". IDD uses different terminology and definitions to those used in the RAO. For example, the UK uses the term 'connected contracts' while IDD uses 'ancillary insurance intermediaries'. Changing such terms would have no added practical benefit for the purposes of regulation and would ultimately lead to the same regulatory outcome as Option 1. However, it would require extensive legislative changes, creating significant familiarisation costs and uncertainty for firms and the FCA. It would also mean that the regulatory framework for insurance would be inconsistent with the approach taken for other financial services sectors.
68. As elements of Option 1 also employ word for word transposition, there are overlaps in the costs and benefits of Option 1 and Option 2. For example, both Options remove the activity of providing information or data on insurance contracts from the scope of FCA regulation and introduce changes to the process for notification for passporting in order to comply with IDD.
69. Copying out IDD word for word would also imply removing any regulations that currently exist within the UK regulatory framework that go beyond IDD. For example, the FCA currently regulates the sale of travel insurance or motor warranties as add-on products which are not required to be regulated under IDD. Deregulating such activities is unwarranted given past evidence of poor practices and consumer detriment in these sectors before they were subject to FCA regulation and because existing rules appear to be working well in the UK market. This would also mean many consumers would not have access to the FOS and other consumer protections for many sales.
70. Further detail on the costs and benefits of Option 2 are provided below. However, to summarise: Option 2 would ultimately secure the same outcome as Option 1 but in way that would be more legislatively complex, introducing unnecessary compliance and significant familiarisation costs.

Monetised costs

71. No monetised costs at this stage.
72. As IDD does not map neatly onto the UK regulatory framework, Option 2 would require a complete restructuring of the legislative framework that applies to insurance sales. For example, terms and definitions in UK law will need to be updated to be consistent with IDD. This would mean significant one off familiarisation costs for the insurance sector, such as insurers and brokers, through re-training staff, including all customer-facing employees; and making changes to established practices, such as amending documentation to reflect changes in language between the current regulatory regime.

73. We expect there will also be ongoing costs arising from costs associated with monitoring and oversight of firms by the FCA, and through updating its rulebook to account for changes in language.
74. The Government will seek to gather further evidence during the consultation.

Non-monetised costs

75. We expect the main non-monetised cost will be to consumers as some businesses that sell insurance products as an add-on alongside other goods and services would no longer be regulated by the FCA, such as travel providers that sell travel insurance products and car dealers selling motor warranties. This could result in consumer detriment as the FCA has found evidence of poor practices and consumer detriment in such areas and deregulation would mean such businesses' customers would no longer have recourse to the FOS and other consumer protections. Such products are often poor value for money and not always suitable for customers.
76. There may be non-monetised costs to removing the activity of providing information on insurance contracts from FCA regulation, as the FCA would no longer have oversight of firms engaging in these activities. While removing these firms from the scope of FCA regulation would mean that it would lose oversight of this part of the sector, the FCA indicate it would still retain oversight of principal insurers/brokers, the businesses responsible for selling the insurance products and ensuring consumers are given appropriate information required to make an informed decision. In addition, new rules in IDD will strengthen the requirements on principals to oversee their products and distribution chains.
77. The Government will seek to gather further evidence during the consultation.

Monetised benefits

78. No monetised benefits at this stage.
79. We expect the main monetised benefit will be to some businesses that sell insurance products as an add-on alongside other goods and services that would no longer be regulated by the FCA, such as travel providers that sell travel insurance products and car dealers selling motor warranties, as would not have to pay associated regulatory costs.
80. We expect car dealers would benefit the most as they are large in number and distribute more insurance products than other firms that would be removed from regulation.
81. There may be monetised benefits to removing firms who provide information on insurance contracts from the scope of FCA regulation. For example, currently administrative costs resulting from such regulation falls on the 'principal' insurer to register such firms as IARs on the FCA register. While IARs do not experience direct regulatory costs from such regulation, such as fees and reporting, they may experience a monetised benefit from the removal of indirect regulatory costs such as in-house compliance teams and monitoring. Also the FCA will not engage with them directly as part of its supervision activities which may also create savings.
82. The FCA may also benefit through having fewer businesses to regulate and oversee.
83. We also expect insurance distributors operating cross-border in the EU may benefit from changes to the process for notification for passporting that may reduce their administrative burden.
84. The Government will seek to gather further evidence during the consultation.

Non-monetised benefits

85. We expect more consumers may purchase insurance products in the areas where FCA regulation will no longer apply, such as ticket cancellation cover and travel insurance products sold by travel providers as an add-on, as businesses selling such products would not have to pay regulatory costs. For example, in the area of travel insurance sold as an add-on by travel providers, data from the Association of British Travel Agents (ABTA) shows that the percentage of travel insurance policies sold at the point of sale through travel agents reduced from 43% in 2004 to 23% in 2012 (travel providers that sell travel insurance products as an add-on alongside their main products/services were brought into regulation in 2007).
86. The Government will seek to gather further evidence during the consultation.

Small and micro business assessment (SaMBA)

87. Copying out IDD word for word would imply removing travel agents selling travel insurance and car dealers selling motor warranties as add-on products from the scope of FCA regulation. This would lead to monetised benefits for small and micro businesses as such firms would no longer be required to comply with the relevant requirements of FCA regulation (see para 6 for more information on these requirements). ABTA found that 42% of 50 surveyed small and medium-sized enterprise (SME) members do not offer travel insurance to consumers when selling holidays and suggest a larger proportion of its SME members would sell travel insurance as an add-on if they were no longer regulated by the FCA.

88. However, this would also lead to non-monetised costs to consumers as many consumers would not have access to the FOS and other consumer protections. The FCA has found evidence of poor practices and consumer detriment in these sectors. For example, it may lead to an increase in consumers being sold insurance products that do not meet their needs. Travel insurance poses a particular risk as such products are usually seen by consumers as complex as they combine many different components (such as winter sports, cancellation cover, lost baggage, etc.) often with different exclusions and excesses.

89. The Government will seek to gather further evidence during the consultation.

Wider impacts

90. HM Treasury has not identified any wider impacts resulting from this proposal, including on our responsibilities under the Equalities Act 2010.

Business Impact Target (BIT) status

91. IDD is not a qualifying regulatory provision (NQRP) as we are required to implement it under EU law. Option 2 is out of scope of the BIT as it avoids going beyond minimum EU requirements.