

Review of the Payment Protection Insurance Market Investigation Order 2011

Provisional decision

27 September 2018

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Summary

1. The CMA's provisional decision is to make minor revisions to the Payment Protection Insurance Market Investigation Order 2011 (the Order) to avoid duplication and confusion among PPI providers and consumers in the light of the implementation of the Insurance Distribution Directive (IDD) in the UK.¹

Introduction

2. The Order was made following a market investigation into the Payment Protection Insurance (PPI) market. It requires, among other matters, that PPI providers must provide policy holders with a policy summary which summarises the PPI policy in a prescribed format.
3. The IDD, when transposed into UK law on 1 October 2018, will mandate that PPI providers must provide policy holders with very similar information, in particular through requiring them to provide an Insurance Product Information Document (IPID).²

¹ DIR (EU) 97 of 2016.

² While the IPID does not include all items included in the policy summary, separate FCA rules mandate that providers give consumers the information which is included in a policy summary but not in an IPID.

4. The CMA has reviewed whether the information requirements of the Order remain appropriate or need revision in the light of the implementation of the IPID.

Legal framework

5. The CMA has a statutory duty to keep under review orders.³ From time to time, the CMA must consider whether, by reason of any change in circumstances an order is no longer appropriate and needs to be varied or revoked.

Background

The Order

6. 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.

7. 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”.*⁴

8. This obligation extends to all PPI policies currently in force, including run-off policies.⁵ This means that all PPI policyholders should get an annual review and policy summary for each PPI policy held.
9. The IDD, 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 contract is concluded at renewal. This requirement will apply from 1 October 2018.

³ Section 162 Enterprise Act 2002

⁴ The relevant information requirements are provided in [The Payment Protection Insurance Market Investigation Order 2011](#).

The Financial Conduct Authority’s (FCA) 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>.

⁵ Run-off is a description of the remaining policies of a PPI provider which has stopped selling new PPI policies.

Initial stakeholder views

10. On 2 August 2018 the CMA published an [Invitation to Comment](#) on its proposal to launch a review of the Order and invited comment on options⁶ for taking account of the Insurance Distribution Directive.
11. Responses to the Invitation to Comment can be found in the [launch document](#). In summary, stakeholders had mixed views on the merits of option one and option two, with arguments favouring the consistency of option one, while those favouring option two noted the proportionality of this on PPI providers of run-off policies.
12. While respondents indicated a preference for one option or the other, none argued that the alternative option was unworkable. However, some practical considerations were raised in relation to option one. More than one stakeholder suggested a variation on these options which would enable PPI providers of run-off policies to choose whether to adopt IPIDs for those run-off policies. As a result, a third potential option was presented when the review was formally launched on 6 September 2018.⁷

Change of circumstances

13. The CMA has provisionally concluded that the implementation of the IDD represents a change of circumstances relevant to the Order.⁸ The change of circumstances is that, in the absence of a review 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 PPI providers. Consequently, the CMA's provisional view is that it is necessary to vary the Order to address this change.

Provisional variation to the Order

14. The CMA has therefore explored three options for potential variations to the Order.

⁶ See paragraphs 20 to 25 of [the launch document](#).

⁷ This is set out in paragraphs 19 and 23 below.

⁸ CMA11 Remedies: Guidance on the CMA's Approach to the Variation and Termination of Merger, Monopoly and Market Undertakings and Orders, paragraph 3.10.

Option one

15. Option one would be to require that all new, renewable and existing PPI policies will require an information document in the format of the IPID⁹ to be sent to policy holders on an annual basis in accordance with Article 4.10(b), and all PPI providers would be required by the Order to provide information to customers in the IPID format annually.
16. This option could 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”

could 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”

17. 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, including PPI providers of run-off policies.

Option two

18. Option two would involve a similar change for all PPI providers, except those of run-off policies, who would be expected to continue to send to existing policy holders the information in the existing format.¹⁰

Option three

19. Option three would be the same as option two but with special provision only made for smaller providers of run off policies.

⁹ In the FCA's ICOBS 6 Annex 3.

¹⁰ ICOBS 6 Annex 2 policy summary.

Stakeholder views of the three options

20. The CMA received six responses to its launch decision document. These included five policy providers and the FCA. All considered that the implementation of the IDD was a relevant change of circumstances and the Orders should be revised, but there was a range of preferences between the three options that were presented. Arguments in favour of and against the options are summarised in the table below:

Table 1 – arguments presented for and against the CMA’s three options

	For	Against
Option 1	<ul style="list-style-type: none">• The most straightforward.• Provides greatest consistency and facilitates consumer’s ability to shop around.• Already being implemented by some providers.	<ul style="list-style-type: none">• May raise costs for run-off providers because not mandated by IDD.
Option 2	<ul style="list-style-type: none">• More consistent with FCA modified rules in ICOBS (IDD does not apply to policies in run-off).	<ul style="list-style-type: none">• Raises costs for providers who have already implemented Option 1.
Option 3	<ul style="list-style-type: none">• Increases flexibility for providers.	<ul style="list-style-type: none">• May create confusion for some consumers who have multiple policies in run-off with different providers.

CMA assessment

21. Through the options explored in this review, the CMA has sought to address its desire for PPI providers to give consumers information in a single consistent format, that is the IPID as described in ICOBS 6 Annex 3, while considering the extent of the change and the potential burden involved.¹¹
22. The exact nature of the format and contents of a policy summary provided under ICOBS 6 Annex 2 and an IPID under ICOBS 6 Annex 3 can be seen in the table below.

¹¹ In particular on PPI providers of run-off policies, given they will have no other requirement to develop information in the IPID (ICOBS 6 Annex 3) format.

Table 2 – IPID and Policy Summary information

Policy Summary (ICOBS 6 Annex 2)	IPID (ICOBS 6 Annex 3)
Name of the insurance undertaking	Insurance company name
Not included	Product name
Statement that the policy summary does not contain the full terms of the policy	Statement that complete pre-contractual and contractual information on the product is provided in other documentation
Type of insurance and cover	Type of insurance-description
Significant features and benefits	What is insured?
	What am I covered for?
Significant or unusual exclusions or limitations	What is not insured?
	Are there any restrictions on cover?
Not included	What are my obligations?
Price information (optional)	When and how do I pay?
Duration of the policy	When does the cover start and end?
Existence and duration of the right of cancellation (other details may be included)	How do I cancel the contract?
A statement, where relevant, that the consumer may need to review and update the cover periodically to ensure it remains adequate	Not in IPID, but FCA mandates this to be provided to consumers elsewhere
Contact details for notifying a claim	Not in IPID, but FCA mandates this to be provided to consumers elsewhere
How to complain to the insurance undertaking and that complaints may subsequently be referred to the Financial Ombudsman Service	Not in IPID, but FCA mandates this to be provided to consumers elsewhere
That, should the insurance undertaking be unable to meet its liabilities, the consumer may be entitled to compensation from the compensation scheme (or other applicable compensation scheme), or that there is no compensation scheme. Information on the extent and level of cover and how further information can be obtained is optional.	Not in IPID, but FCA mandates this to be provided to consumers elsewhere

23. As can be seen, there is a high degree of overlap between the two formats, and while there are some areas not included in the IPID that are provided in the policy summary, the FCA’s rules mandate PPI providers to give this information to consumers in other ways. The CMA has concluded therefore, that the use of the new IPID format will not result in consumers getting less information than at present. The CMA also notes that this degree of overlap means that the cost of changing format would be relatively limited.

Conclusion

24. The CMA has concluded that it should implement option one, given the history of the PPI market and the intention of the Order in terms of the problems it was designed to remedy. It considers it would be appropriate for consumers to receive consistent information from PPI providers in the same format, irrespective of whether the PPI policy concerned is new or in run-off. The CMA recognises that this will require some action and hence involve some limited additional cost to run-off policy providers, but considers that this action is necessary to prevent confusion between policies and to achieve the goals of the order, making the comparison of PPI products for consumers with run off policies in future as easy as possible.

Provisional decision and notice of intention to vary the Order

25. The CMA has reached a provisional conclusion that the new Insurance Distribution Directive represents a change of circumstances, such that the Order should be varied to implement option one, and to require the production of an IPID for PPI providers to replace the policy summary.
26. Consequently, the CMA hereby gives notice of its intention to vary the Order in the manner set out in paragraphs 15 and 16.

Consultation on the CMA's provisional decision

27. The CMA is now consulting on its provisional decision and its intention to vary the Order as set out above. Paragraph 7(2) of Schedule 10 of the Enterprise Act 2002, in conjunction with paragraph 3.33 of CMA guidance document CMA11, provides that the CMA should allow a 30-day consultation period in cases where the CMA intends to make changes to an order. Responses should therefore be sent to the following address and should arrive at the CMA by **5pm on Monday 29 October 2018**. Following this consultation, the CMA will consider the responses received and assess the evidence and views presented before reaching and then publishing its final decision.

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