

Review of the Payment Protection Insurance Market Investigation Order 2011

Final decision

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Summary

1. The CMA's has decided to make minor revisions to the Payment Protection Insurance Market Investigation Order 2011 (the Order) in the light of the implementation of the Insurance Distribution Directive (IDD) in the UK on 1 October 2018.¹

Background

The Order

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 an Annual Review (a document which, among other things, reminds customers of their ability to cancel or switch) together with a policy summary, which summarises information relating to their PPI policy.²
3. Article 4.14 of the Order defines the policy summary as:

¹ DIR (EU) 97 of 2016.

² Article 4.10(b) of the Order.

*“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

4. This obligation extends to all PPI policies currently in force, including run-off policies.⁴ This means that all PPI policyholders should get an Annual Review and policy summary for each PPI policy held.

The Insurance Product Information Document (IPID)

5. The IDD, was transposed into UK law on 1 October 2018 through the introduction of an obligation to comply with its requirements via a new ICOBS Annex 3. The IDD, in Article 20, specifies that prior to the conclusion of a general insurance contract, which includes PPI, including when a contract is concluded at renewal, the customer must be provided with certain relevant information about the insurance product in the form of an IPID.⁵ The IDD does not, as implemented, apply to policies in run-off.
6. There is a high level of similarity between the policy summary required by the Order and the IPID required by the IDD. The exact nature of the format and contents of a policy summary required under ICOBS 6 Annex 2 and an IPID under ICOBS 6 Annex 3 can be seen in the table below.

³ 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>.

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

⁵ While the IPID does not have to include all items included in the policy summary, separate FCA rules require providers to give consumers the information which is included in a policy summary but not in an IPID.

Table 1 – IPID and Policy Summary information

Policy Summary required by the Order (via reference to 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

Legal framework

- The CMA has a statutory duty to keep orders under review.⁶ From time to time, the CMA must consider whether, by reason of any change in

⁶ Section 162 Enterprise Act 2002

circumstances an order is no longer appropriate and needs to be varied or revoked.

Consultation

8. On 2 August 2018 the CMA consulted on its proposal to launch a review of whether the information requirements in the Order remain appropriate or need revision in the light of the implementation of the IDD, and invited comment on two options⁷ for taking account of the IDD.
9. In summary, stakeholders had mixed views on the merits of each option, with some arguments favouring the consistency of applying a requirement to produce IPIDs across the board, and others favouring the proportionality of not applying this requirement to PPI providers of run-off policies. While respondents indicated a preference for one option or the other, none argued that the alternative option was unworkable. However, 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 considered when the review was formally launched on 6 September 2018.
10. On 27 September the CMA published its provisional decision that the IDD represents a change of circumstances, such that the Order should be varied to require the production of an IPID for all PPI providers to replace the policy summary. The CMA received two responses, from PPI providers, both of which supported the CMA's provisional decision. One of the responses also suggested implementing a transitional period of two years for providers that administer small run-off schemes to spread the cost of the change to IPID format.

CMA assessment

Change of circumstances

11. The CMA has 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 IDD will mean that consumers will receive two policy documents – in different formats at different stages of their contract - containing substantially the same

⁷ See paragraphs 20 to 25 of [the launch document](#).

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.

information. This could be confusing for consumers and unnecessarily burdensome for PPI providers.

Variation to the Order

12. In view of the change of circumstances described above, the CMA considers that it is necessary to vary the Order to enable consumers to receive information where possible in a single consistent format, that is the IPID as described in ICOBS 6 Annex 3 and, in the areas not included in the IPID, as mandated by other FCA rules (see Table 1 above). The CMA notes that the degree of overlap with the FCA requirements means that the cost of changing format would be relatively limited.
13. Accordingly the CMA has decided to require that providers of all new, renewable and existing PPI policies produce an information document in the format of the IPID⁹ to be sent to policy holders on an annual basis.
14. This will 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”

will 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”

This will 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.

Timing of implementation

15. The CMA notes that one respondent has suggested applying a two-year transitional period to the introduction of these changes for small run-off schemes. The CMA does not consider this to be appropriate for the following reasons:

⁹ In the FCA's ICOBS 6 Annex 3.

- The changes to the format for the provision of information to consumers by PPI providers are limited, not complex and should not be costly to implement;
- The goal of the revision is to provide clarity and consistency for both PPI providers and consumers; even in the case of small run-off schemes, consumers may wish to make comparisons with other products offered in the market in future.

Accordingly the CMA will require that the new requirement apply to all providers from the date of publication of the final Variation Order.

Final decision

16. The CMA has decided that the new Insurance Distribution Directive represents a change of circumstances, such that the Order should be varied to require the production of an IPID for all PPI providers to replace the policy summary.
17. Consequently, the Order the CMA has decided that the Order should be varied consistent with the amendments set out in paragraphs 13 and 14.¹⁰ A draft Payment Protection Insurance Market Investigation Order 2011 Variation Order 2018, which sets out the detail of the variation, and a formal Notice of Intention to Vary are published alongside this decision.
18. 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 Thursday 13 December 2018**. Following this consultation, the CMA will consider the responses received and assess the evidence and views presented before publishing the final Variation Order.

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¹⁰ In order to assist stakeholders by ensuring consistency of terms throughout the varied Order, the draft variation order includes additional minor text amendments which have the same purpose as that set out at paragraphs 13 and 14 above.

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