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## Insurance intermediation: New European rules are under preparation

***This article reflects an interview BIPAR had with Mr Karel Van Hulle, European Commission, DG Internal Market, Head of Unit Insurance & Pensions, on the occasion of the European Forum for Insurance Intermediaries organised by BIPAR on 4 and 5 June 2009.***

*BIPAR, the European Federation of Insurance Intermediaries, is a non-profit European organisation grouping professional associations of insurance intermediaries in Europe. It presently has a membership of 47 national associations, established in 31 countries, and represents some 80,000 insurance agents and brokers, employing in all about 250,000 people. Founded in Paris in 1937, BIPAR headquarters were moved to Brussels in 1989. It is today the official and recognised voice of insurance intermediaries with the European Institutions.*



**Karel Van Hulle** is a lawyer by training and since 2004 has been the Head of the Insurance and Pensions Unit at the European Commission, DG Internal Market and Services. In his function as Head of Unit, his main responsibility is the preparation of a new solvency regime for insurance and reinsurance companies (Solvency II). He joined the DG Internal Market and Services in 1984 after having served 8 years with the Belgian Banking Commission.

Prior to his appointment as Head of Unit for Insurance and Pensions, he was Head of Unit for Accounting Standards, Head of Unit for Financial Reporting and Company Law and Head of Unit for Accounting and Auditing. In that capacity he was closely involved with harmonisation in the fields of accounting, auditing, and company law both at EU level and internationally and served as the Commission's observer with the International Accounting Standards Committee.

In addition, Karel Van Hulle was Secretary of the High Level Group of Experts on Company Law which prepared the Commission's 2003 Action Plan on Company Law.

***BIPAR:*** *Mr Van Hulle, you are consistently referred to in the press as Mr Solvency II. Congratulations with this historic new piece of regulation. You indeed successfully completed the Solvency II negotiations. This happened against the background of the financial and economic crisis and in the year of elections of the European Parliament. We will dedicate another article of this BIPAR articles series to Solvency II in the future. For this interview we would want to focus mainly on recent developments relating to the Insurance Mediation Directive (IMD), another dossier you are responsible for.*

***KVH:*** *Insurance mediation, or as many of you call it insurance intermediation, became a really sexy subject in Brussels and thus in the whole EU. This is particularly thanks to the IMD (adopted in December 2002) which substantially improved the image and professionalism of our insurance and reinsurance intermediaries. The IMD furthermore strengthened the rights of the consumers with regard to insurance process in general and established the basis for the Single Market for agents and brokers. In these terms it is a clear improvement. On the other hand, the transposition of the IMD by the Member States and our implementation check have revealed*

certain weaknesses in the current IMD. These weaknesses are in their majority caused by the minimum harmonization approach of the current IMD, which from now on we will call IMD I.

**BIPAR:** *Will there then come an IMD II?*

**KVH:** Yes indeed, besides the mentioned weaknesses of the IMD II itself, there is a whole series of "collateral" developments happening at the EU and international level which make the IMD I quickly outdated. It is therefore necessary to work together with our supervisors as well as the industry on the IMD II.

**BIPAR:** *Let's pick up on the current crisis. The President of the European Commission asked a High Level Group chaired by Mr Jacques de Larosière to propose recommendations to the Commission on how to reinforce European supervisory arrangements to better protect its citizens and rebuild trust in the financial system. How does it impact future regulation in the field of insurance?*

**KVH:** In its Communication "Driving European Recovery" of 4 March 2009, the Commission welcomed and supported the fundamental lines of the recommendations presented by this High Level Group. Obviously we recognize, as also BIPAR reminded us in its position paper on this Communication, that insurance is not banking and that neither insurance, nor insurance intermediaries are at the heart of the present financial crisis. Nevertheless, the experience from the crisis impacts on the future of the regulatory decisions in the whole financial sector, including insurance. This is a political fact that we have to live with.

**BIPAR:** *One of the consequences of this political fact is a tendency to more harmonization in the regulation of financial services at EU level.*

**KVH:** Indeed, this is why also the IMD II will need to be a more modern and harmonized Directive, leaving less room for national gold plating and diverging national interpretations. I shall, however, watch – in consultation with BIPAR – that we keep the appropriate level of harmonization in the IMD II, taking into consideration the specificities of insurance intermediaries.

**BIPAR:** *It is expected that the future Commission, in light of the crisis, will even more focus on consumer protection, correct?*

**KVH:** Probably yes, the second collateral factor that will influence any future financial regulation and thus the IMD II is the policy of the future Commission. Such a policy is also heavily influenced by the pressure imposed by the European Parliament which has an increasingly important role in the European regulatory process. In practical terms, this will be translated into more transparency across the financial services sector. As regards the IMD II, this will have a strong effect on the coverage of the information requirements for intermediaries. Here we need to watch, as we discussed at various occasions with BIPAR before, that the level playing field with alternative forms of distribution is observed. However, I clearly inform you today, that in the future you will have to adapt to a more transparent world. As a good starting point we consider the BIPAR principles on transparency. But this is only a starting point.

**BIPAR:** *There is also regulation in the make related to a whole series of Packaged Retail investment products - so called PRIPs- such as unit linked life insurance products.*

**KVH:** Indeed and this leads me to the third "collateral" factor which I call the PRIPs factor. This factor will bring indirectly some MiFID elements in the discussion on the future insurance regulation, including the IMD II. As outlined in the recently adopted EC Communication on PRIPs, there will be particularly an effect on product disclosure and sales practices of life with investment element insurance policies, such as unit-linked life products. While designing this new piece of legislation, we will of course take into consideration the insurance component of this specific category of insurance products. When considering these aspects in the framework

of the IMD II, I have understood that there is a difference between non-life and classical life products at one hand and life with investment element products at the other. In this perspective we are already at this stage involving BIPAR in the discussion on the borderlines between these two categories.

**BIPAR:** *the fourth collateral you will take into account in the design of the new IMD is probably the final report of the Business insurance sector Inquiry of the European Competition authorities.*

**KVH:** In my opinion, the most pertinent issues from an intermediation perspective are remuneration transparency and management of conflicts of interest. Both were referred to by our colleagues in DG Competition as complex. On the basis of the information received from the industry (such as BIPAR) I realize that any future regulation in this field must be carefully considered because of potential unwanted side effects, both in terms of direct and indirect cost as well as the level playing field. As an example of the direct cost I think here about the compliance cost to be imposed on small and medium sized intermediaries. In terms of indirect cost, I refer as an example to the potential macroeconomic cost due to the possible disappearance of such smaller intermediaries from the market. As regards the level playing field issue, I will take here into consideration the growing competition from banks and other alternative forms of distribution in the consumer and SME segment of your market.

**BIPAR:** *Are there other - as you call it "collateral" influences?*

**KVH:** in the work stream towards the IMD II the Commission will, amongst others, evaluate the IMDI provisions also from the perspective of administrative burdens and propose improvements where needed and possible.

**BIPAR:** *So what is your message for the future to insurance intermediaries?*

**KVH:** Broadly my message for the future is the following: The proposal for the revision of the current IMD, which we would like to be finalized by the end of 2010, will have to satisfy various political and regulatory standards reflecting the reality in the society in general. This proposal will at the same have to reflect the influences, both direct and indirect, that I have described before. Let me assure you that the process of making the IMD II is at the centre of the attention of my unit. In particular since the successful adoption of Solvency II, the IMD II dossier is at the top of my "things to do" priority list.

Over the last two years, since we started seriously thinking about the future of insurance mediation, BIPAR has clearly shown its sector leadership and capacity to be our valuable and trustfully partner in this process. Myself and my colleagues in my Unit appreciate such a strong discussion partner, as we are fully convinced that without a constructive feedback from the direct addressees of the IMD we cannot construct an effective, successful and most of all practically applicable regulation for the future. IMD II will be adapted to the specificities of your activities and should enable the development of competitive and sustainable insurance mediation business models that will help moving this sector forward in the interest of all.

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