



The Consumer Voice in Europe

EBA Consultation Paper Draft Guidelines on product oversight and governance arrangements for retail banking products

BEUC RESPONSE

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Background

Developments in the markets for financial services in recent years have shown that failures in the conduct of financial institutions towards their customers can cause significant consumer detriment. In order to address some drivers of conduct failure, The European Banking Authority has developed detailed guidelines for product oversight and governance (POG) of retail banking products such as mortgages, personal loans and payment services. These guidelines require the establishment of internal arrangements for the design, marketing and life cycle maintenance of products and are aimed at ensuring that products are designed to meet the best interest of consumers.

General Comments

BEUC welcomes the opportunity to comment on this consultation paper. https://eiopa.europa.eu/Publications/Consultations/EIOPA-CP-14-064_Consultation_Paper_on_Product_intervention_powers.pdf

In general, BEUC regards POG requirements as a welcome step towards a more ex-ante approach in avoiding consumer detriment. Obliging firms to take into account the consumer interest in every stage of the product design & sales process could give them a welcome impetus to create and sell products which truly address consumer needs.

However, we would like to emphasize strongly that these POG requirements should not become a mere tick-box exercise for compliance officers. To that end we would like to see more transparency and a stronger involvement of national supervisors and EBA in this POG process.

Replies to questions

Question 1: Do you agree with the proposed approach of capturing the entire product life cycle by covering distributors as well as manufacturers?

BEUC agrees that product governance and oversight (POG) arrangements should target both manufacturers and distributors, capturing the entire product life cycle. Excluding the distribution part, where financial products are sold and marketed to consumers, would render any POG arrangements ineffective from the start.

Question 2: Do you agree with the delineation of the two sets of requirements for manufacturers and distributors?

BEUC agrees that manufacturers and distributors each play their distinct role and should accordingly comply with separate sets of requirements.

However it must be made clear that, if a firm is acting both as a manufacturer and distributor, both sets of requirements should apply.

Question 3: Are there any additional requirements that you would suggest adding to either of the two sets of requirements? If so, why?

In general BEUC regards POG requirements as a careful first step towards a more ex-ante approach in avoiding consumer detriment. Obliging firms to take into account the consumer interest in every stage of the product design & sales process could give them a welcome impetus to create and sell products which truly address consumer needs.

However, we would like to emphasize strongly that these POG requirements should not become a mere tick-box exercise for compliance officers. To that end we would like to see more transparency and a stronger involvement of national supervisors and EBA in this POG process.

Additional requirements should therefore include:

- The requirements for internal reviews should be detailed further (on content & frequency) and require an external check, e.g. by an auditor.
- For the sake of transparency, all POG requirements should be made publicly available.
- National supervisors should be tracking these POG requirements and hereby check if they effectively prevent inappropriate products from being sold and marketed to consumers. Their findings should be reported to EBA.
- If certain product classes are prone to systematic mis-selling practices, according to national supervisors' reviewing of POG requirements, EBA should consider introducing a regulatory pre-approval process for these kind of products.

Title II - Specific questions regarding Guidelines for manufacturers

Question 4: Do you agree with Guideline 1 on establishment, proportionality, review and documentation?

Question 5: Do you agree with Guideline 2 on manufacturers' internal control functions?

Question 6: Do you agree with Guideline 3 on the target market?

Question 7: Do you agree with Guideline 4 on product testing?

Question 8: Do you agree with Guideline 5 on product monitoring

BEUC is in favour of further guidance by EBA on this point, regarding specific criteria or parameters which should be monitored, such as consumer complaints, repayment defaults and early contract terminations.

Question 9: Do you agree with Guideline 6 on remedial action

Remedial action is a key component of POG provisions. Therefore we urge EBA here to adopt tougher guidelines. When manufacturers become aware that products are not sold as envisaged or other problems arise, the manufacturer should suspend the selling of this product via the distributor(s).

Furthermore manufacturers should inform their national supervisor about any remedial action taken, in order to accommodate for any potential further regulatory action.

Question 10: Do you agree with Guideline 7 on the selection of distribution channels?

Question 11: Do you agree with Guideline 8 on information for distributors?

Specific questions regarding Guidelines for distributors (Title III)

Question 12: Do you agree with Guideline 1 on establishment, proportionality, review and documentation?

Question 13: Do you agree with Guideline 2 on the distributor's internal control functions?

Question 14: Do you agree with Guideline 3 on the knowledge of the target market?

Question 15: Do you agree with Guideline 4 on information?

In general, it should be very clear that distributors should not address consumers outside the target market of a specific product.

END