
Distribution of savings and investment insurance without capital guarantees

At the start of October, the Portuguese Insurance and Pension Funds Supervisory Authority issued Recommendation 2/2024, which includes guidelines aimed at enhancing transparency, ethics and consumer protection in the distribution of savings and investment products without capital guarantees.

Portugal - Legal Flash

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Key aspects

- > **Target market definition:** Savings products without capital guarantees should only be offered to consumers with suitable risk profiles. Extra protection is needed for those who exceed the average life expectancy.
- > **Protection of vulnerable consumers:** The recommendations aim to enhance security, ethics and transparency, protecting consumers with lower financial literacy from improper practices.
- > **Rigour and clarity of information:** The recommendations require that product communications be clear and precise, avoiding ambiguities and making the associated risks easy to understand.
- > **Responsibility and integrity in distribution:** Insurance companies and intermediaries are encouraged to create an ethical environment that prioritizes clients' interests and ensures high standards of professionalism.

Recommendation 2/2024 of October 8

Introduction

On October 8, 2024, the Portuguese Insurance and Pension Funds Supervisory Authority (“**ASF**”) issued [Recommendation 2/2024](#) (the “**Recommendation**”). The Recommendation provides guidelines to enhance transparency, ethics and consumer protection in the distribution of savings and investment products without capital guarantees.

Aimed at ASF-supervised entities, particularly insurance companies and intermediaries authorized to operate in the life insurance sector, the Recommendation aims to ensure that these entities adhere to high standards of professionalism, thereby fostering trust in Portugal's insurance sector.

The new regulatory framework focuses on three key areas:

- **Design and approval of insurance products:** This involves strict requirements for identifying the target market and for ensuring that products align with consumer characteristics and needs.
- **Responsible distribution of insurance products:** This ensures that products are promoted and offered only to consumers who fit the established risk profile.
- **Information duties:** This requires clear, precise and comprehensible communication, along with additional measures to ensure consumers fully understand the associated risks.

This document summarizes the key developments in the Recommendation and their impact on the insurance sector.

Although the ASF acknowledges that implementing certain measures may require significant adjustments for the entities involved, it expects these recommendations to enhance market integrity and consumer protection, particularly for those in more vulnerable situations.

Designing and approving insurance products

In **designing and approving insurance products**, the ASF requires insurance companies and intermediaries to adhere to strict practices to ensure products are suitable for the client's profile. Specifically, they are required to:

- (i) identify a clear **target market**, excluding consumers whose age exceeds the average life expectancy at birth in Portugal or will exceed it before the contract ends;
- (ii) exclude from the target market any clients more likely to be affected by improper practices; and
- (iii) identify the most appropriate age groups for each product.

These requirements aim to prevent inappropriate sales to consumers who may be adversely affected. They are based on Article 4 of [Delegated Regulation \(EU\) 2017/2358](#) and articles 24 and 153 of the Legal Regime on Insurance and Reinsurance Distribution, approved by [Law 147/2015](#), as amended (“RJDSR”).

Product suitability tests must be carried out before marketing to confirm that the product meets the needs and objectives of the target market throughout its lifetime, as stipulated in Article 6 of Delegated Regulation (EU) 2017/2358. It is also recommended that, during product approval, the target market definition for each product include a **consideration of the investment time horizon**.

If a client wants to contract an insurance product but, at the time of subscription, does not fall within the target market’s age ranges, insurance companies and intermediaries must inform the client of this, explaining how it relates to the product’s characteristics. In this context, the ASF also recommends that insurance companies and intermediaries consider **the client’s level of financial literacy and the proportion of their total savings allocated to insurance products**.

Distributing insurance products

In **distributing insurance products**, the ASF recommends that insurance companies and intermediaries act responsibly, respecting the risk profile and defined target market. The **distribution strategy** must align with the profile identified during the design phase, avoiding the promotion of products to consumers outside the target market, as established in article 30 of the RJDSR.

To achieve this, the ASF requires a **careful selection of distribution channels** to ensure products reach only appropriate clients. Distributors must receive all necessary information to ensure responsible distribution, in accordance with Articles 8 and 10 of Delegated Regulation (EU) 2017/2358.

The ASF also recommends that entities include a **non-guarantee statement** in the products, clearly stating, *“This product is not a deposit, and therefore is not covered by a deposit guarantee fund.”* This is to prevent misinterpretations about the product’s nature and risks.

Information duties

As regards information duties, the ASF emphasizes the importance of providing **clear and transparent information**. All information must be conveyed accurately, comprehensibly, and without misleading content, in accordance with article 32 of the RJDSR.

For insurance-based investment products, a **key information document** (“KID”) is required. This document must include the recommended age range for the target market in the section *“What is this product?”*, as stipulated in Articles 5 to 14 of [Regulation 1286/2014](#) of the European Parliament of January 1, 2018. When a KID is not required, this information must be prominently displayed in the pre-contractual documentation.

To ensure the product's suitability for the client's profile, information should be collected carefully and on an individual basis, **avoiding overly standardized processes or those based solely on self-assessment responses**. Entities must properly analyze and integrate the obtained information into the recommendation process to ensure that the product offered aligns with each client's specific characteristics and needs.

For higher-risk products, the ASF recommends that clients express their purchase intent through a **handwritten declaration of intent**, rather than merely ticking checkboxes. This approach is to help ensure that clients fully understand the nature and conditions of the contract.

Supervision

The **ASF will monitor compliance with these recommendations** through **supervisory actions** and **extraordinary reports**, ensuring that insurance companies and intermediaries maintain high standards of professionalism and consumer protection.

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