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POLISH FINANCIAL SUPERVISION AUTHORITY PUBLISHES RECOMMENDATION U ON BANCASSURANCE BEST PRACTICES DUE TO COME INTO FORCE ON 31 MARCH 2015

On 24 June 2014 the Polish Financial Supervision Authority (*Komisja Nadzoru Finansowego* or "**PFSA**") published Recommendation U on bancassurance best practices ("**Recommendation U**").

Recommendation U includes 21 detailed recommendations which are grouped into 6 topics[1]. Recommendation U is due to come into force on 31 March 2015.

Recommendation U is addressed to banks only. However, it applies indirectly to insurance companies that wish to cooperate with banks in the bancassurance sector. Bancassurance remains one of the fastest growing insurance distribution channels in Poland, accounting for 46.7% of life insurance GWP and 9.2% of property and personal insurance GWP in 2013.

This client briefing focuses on the key aspects of Recommendation U that are of interest to both banks and insurance companies.

[1] Which include (i) corporate governance, (ii) protection of the bank against risk, (iii) role of the bank, (iv) accounting policy, (v) relationship with customers, and (vi) internal control systems.

Executive Summary

The key provisions of Recommendation U concern:

- Freedom of choice:
  - The bank is not prohibited from entering into a cooperation arrangement with one or more insurance companies, whereby the bank offers to its customers products provided by such partner(s).
  - However, the bank may not, in principle, refuse to allow the customer to procure insurance coverage provided from an alternative third party insurance company that does not have a cooperation arrangement with the bank, provided that such alternative insurance coverage provider meets objective minimum criteria specified by the bank.
- Group insurance model vs. agency model:
  - The bank may receive remuneration (e.g. commission) from the insurance company only where the bank is acting as an agent (i.e. under the agency model).
  - In the group insurance model the bank may not receive any remuneration from the insurance company. Instead, it may charge the customer, but can only be refunded the costs incurred by it in connection with the concluding and/or handling of the insurance agreement.

Freedom of choice

Banks have not been prohibited from entering into a bancassurance arrangement with only one insurance company.

However, the PFSA requires that the bank should ensure that the customer is free to choose another insurance company and the bank should inform the customer about such possibility.

The bank may refuse to accept an insurance product offered by an alternative insurance provider chosen by the customer, however such refusal must be based on objective criteria. Accordingly:

- the criteria imposed by the bank may not biased in a manner excluding alternative insurance providers from being able to meet them; and
- the criteria must be applied uniformly both to alternative insurance providers and the bank's own insurance partners (e.g. the bank may not offer insurance products provided by its insurance partner(s) which do not meet the objective criteria the bank imposes on alternative providers; nor may it reject an alternative insurance provider due to its financial standing if such standing does not differ from that of the bank's insurance partners).

The bank must justify in writing its refusal to accept an alternative provider's insurance product.

When offering several insurance products (e.g. provided by its several insurance partners), the bank must provide the customer with accessible and clear information allowing the customer to compare such products, highlighting in particular those provisions that may be important to the customer, including for example the scope of the insurance coverage, the level of the fees the customer will be obliged to pay, any exclusions of liability etc.

Bancassurance model and conflicts of interest

Recommendation U requires that bancassurance cooperation should be structured in a manner not giving rise to a conflict of interest between the bank and the insurance partner. In particular, this means that the bank's role as the policy holder under the group insurance model must be clearly distinguished from the bank's role as an insurance intermediary under the agency model.

Accordingly the bank may receive remuneration (e.g. commission) from the insurance company only in cases where the bank is acting as an agent under the agency model.

Under the group insurance model, the bank must not receive remuneration from the insurance company. However, it is permitted to receive from the customer a refund of the costs incurred by the bank in connection with conclusion and/or handling of the insurance agreement (i.e. it may not constitute hidden commission).

Where the insurance policy is concluded for the benefit of the bank only (i.e. where the insurance company would have a recourse claim against the customer following the satisfaction of the bank's insurance claim), the bank must refrain from charging the customer with the cost of the insurance premium.

Under the group insurance model, the bank should act in the interests of the customer.

The bank should monitor the number of refusal decisions of the insurance company relating to the payment of benefits and analyse the justifications for such decisions. If irregularities are discovered e.g. with respect to the manner, timeliness or integrity of dealing with complaints, claims and payments, the bank should take action in order to remove such irregularities.

Transparency and commission levels

Recommendation U does not impose hard limits on the levels of commission that may be collected by the bank under the agency model. However, the PFSA expects that the bank's commission should be calculated taking into account the costs incurred by the bank.

The bank should always clearly inform the customer whether it is acting as an agent under the agency model or as policy holder under the group insurance model.

The rules of cooperation between the bank and an insurance company should be transparent, clear and not misleading.

The bank is not required to disclose to the customer the full text of the bancassurance agreement or the specific level of commission collected by it. However, it must inform the customer about certain key terms, including the method of collection of premiums and payment of benefits.

The bank must always clearly inform the customer about the product's features and his/her rights and obligations.

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Authors

Marcin Bartnicki
Counsel

T: +48 22 627 11 77
E: marcin.bartnicki@cliffordchance.com

Marta Bieniada
Senior Associate

T: +48 22 627 11 77
E:marta.bieniada@cliffordchance.com