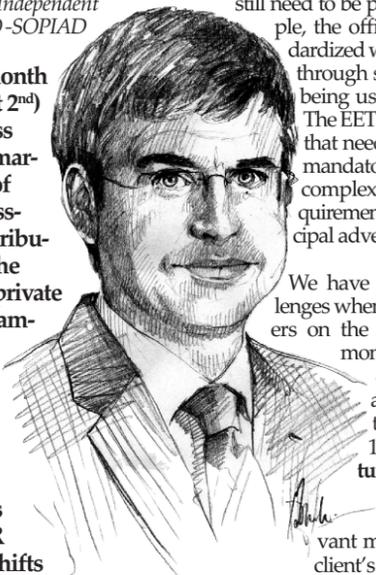


# ESG MIFID II and IDD: one month to go to for effective suitability assessment – status update

By David SÜETENS (portrait), Independent Director and Pierre NEMETH, CEO-SOPIAD

**W**ith less than one month remaining (August 2<sup>nd</sup>) we wanted to assess the current readiness of the market for the implementation of ESG MifidII suitability assessment and the Insurance Distribution Directive (IDD) across the different players, including private banks, fund platforms and family offices. One major change for such players will be the need to incorporate sustainability preferences in the overall client suitability assessment. Clearly the expanded Mifid II regime goes above and beyond the SFDR product categorization and shifts the focus to the client demand/input and hopefully resulting client centricity. All these distributors will thus need to combine going forward and assess the fund product data from their fund providers and the data resulting from their enhanced ESG client suitability assessment.

For certain players such reporting requirements can come across as moving targets, as various technical guidance documents continue to be issued close to the official deadlines and various Q&A documents



still need to be published by ESMA. For example, the official version of the EET (standardized way to exchange ESG data) went through several iterations and it is now being used in the market since June 1. The EET encompasses close to 600 fields that need to be completed. Only 44 are mandatory at this stage, but it becomes complex with the additional data requirements such as consideration of principal adverse impacts, etc.

We have noticed some common challenges when interacting with various players on the distribution side in the past months regarding the integration of client sustainable preferences and different ways to address them. To list a few:

1) **Lack of uniformity to capture ESG preferences:** one main challenge for financial institutions would be to find relevant methodologies to capture their client's sustainability preference. Certain players believe that a simple letter to the client will do. We strongly advise against such implementation of the ESG MIFIDII amendment as it would defeat all purposes of the directive. Many clarifications on this process have now been made by ESMA and national authorities to support financial market participants

2) **Move beyond the deadline:** some financial institutions still believe that the response to MIFID ESG could be achieved well beyond the deadline and did not capture the requirement in their 2022 strategic roadmap, comforting themselves that ESG external controls would also be deferred (lack of clarity on

open questions, case studies etc.). Even if the process of collecting ESG preferences would probably become increasingly clearer over time, we strongly recommend to start the process as from the deadline and improve it over time in order to be fully regulatory compliant and respond to the increased market demand from investors.

3) **ESG literacy:** even if the appetite for sustainable investment is very high (more than half of the EU surveyed investors from a recent big4 market study), the majority of non-professional investors is still not familiar with the notion of sustainable investment (and the 3 related options to capture sustainable preferences defined in ESG MIFID). Asking to a non-professional investor if he/she wants to invest in sustainable related products could be a serious challenge (without any pedagogy before asking the preferences, investors would be frustrated by questions that they do not perfectly understand the meaning, how to answer to them and what would be the impact compared to their existing portfolio). Nevertheless, thanks to the different initiatives from fintechs and/or authorities, specific training guides are more and more available to financial institutions to help to and guide their investors and their own staff on the path to ESG literacy.

4) **Greenwashing:** Given the regulatory and reputational risk this continues to be a key concern, certain financial actors seek refuge behind what they call "lack of data homogeneity", "scoring method transparency" to not integrate ESG into their current products/services offering. The past 12 months have seen EU authorities, regulators and industries outline measures against these concerns. In addition, ESG raw data can also be used by financial institution (instead of ESG scores) to increase ESG trust, data transparency and readiness for all stakeholders (investors, financial actors, etc.)

5) **Process of measuring sustainability adequacy:** Measuring the adequacy between a product and investor's preferences remains a much debated topic, for which technology can help. So, imagine when you think about suitability assessment at portfolio level. Despite the lack of guidelines on that topic (many questions have been raised by financial institutions' associations to national and EU authorities), the need to define a structured and scientific approach remains key. Even if the suitability assessment approach remains somehow heterogeneous between different actors, by providing transparency on the method used (and by remaining aligned with current directives), financial institutions would start the ESG Mifid journey. Having embarked on this journey being agile and collaborating with digital players remains the best way to address these challenges.

To conclude, private banks, fund platforms and family offices do not have the choice and will need to meet the regulatory requirement as from August 2<sup>nd</sup>. They will need to get their processes ready, and technology will be essential at all stages. For example, when assessing clients' preferences, technology will be required to understand the complexity of the client's choices, assess & adjust portfolio to meet their preferences, report suitability figures. Collaboration with digital players remains a real opportunity for financial institutions to speed up the implementation and respond to regulatory requirement much faster than by building long and painful in-house solutions.

Finally, the decision and responsibility about client suitability rests with the adviser. With only a few weeks until the regulation comes into force, there is no time like to act now and ensure they have all the building blocks in place for a successful future and meet the regulatory and investor demands.

## Clock is ticking to comply with new "sleeping insurance contracts" law

By Dieter PUTZEYS, Director KPMG Luxembourg

**T**he law of 30 March 2022 (the "Law"), published on 1 April 2022 and corresponding to draft bill 7348 approved by the Luxembourg Parliament on 17 March 2022, creates a legal framework for sleeping insurance policies. Inspired by similar regimes in Belgium and France, the Law applies to bank accounts, safe deposit boxes and insurance contracts and covers prevention, consignment and restitution.

According to the Law, an insurance company is any insurance undertaking authorized in Luxembourg and any insurance undertaking's Luxembourgish branch governed by foreign law, which carries out operations covered by Annex II of the amended law of 7 December 2015 on the insurance sector.

It lays down strict obligations and deadlines regarding:

- inactive contracts (where no beneficiary has claimed any benefits due)
- sleeping contracts (inactive for at least 2 years).

The timeline (image below) illustrates the Law's main deadlines for insurance companies:

**Step 1:** Inactivity starts on the day the insurance company becomes aware of benefits due under an insurance contract that are unclaimed by a beneficiary.

**Step 2:** If an insurance contract has been inactive for a year, the insurance company must, unless any contractual stipulation to the contrary, inform the beneficiary and explain the consequences of a sleeping policy. If the beneficiaries do not react within 3 months, or if the insurance company has insufficient data to contact the beneficiary, it must investigate further to identify and contact the beneficiaries.

**Step 3:** When inactive for at least 2 years, the insurance contract is considered a sleeping policy.

**Step 4:** When inactive for 5 years, the insurance company must, unless any contractual stipulation to the contrary, inform the beneficiaries again and indicate the consequences of a sleeping policy.

**Step 5:** When inactive for 6 years, the insurance company must request the deposit of an amount equal to the unclaimed benefits electronically via MyGuichet.lu. A third party cannot make this

request on the company's behalf. If a suspicious activity report has been filed, this request should not be made.

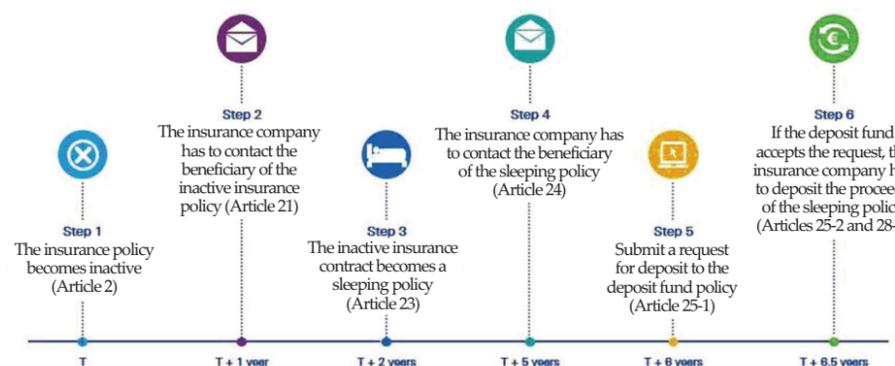
**Step 6:** If the deposit fund accepts the deposit request, the insurance company must deposit the proceeds of the asset's liquidation within 1 month of the acceptance notification. A single deposit must be made for all benefits due under the same insurance contract.

To comply with the Law as soon as possible and avoid administrative and criminal sanctions, we

recommend that concerned insurance companies:

- update their policies and procedures to reflect the Law's requirements and deadlines
- ensure their insurance policy management system tracks these dates and triggers, and flags inactive and sleeping contracts
- can properly trace their contacts and document their business relationships during the entire contract lifecycle.

Need help navigating the requirements of this Law? Contact Dieter Putzeys at [dieter.putzeys@kpmg.lu](mailto:dieter.putzeys@kpmg.lu).



## Foyer et Allianz Luxembourg nouent un partenariat stratégique

**F**oyer et Allianz ont formalisé un accord visant à créer des synergies entre les deux groupes pour le développement futur de leur clientèle d'entreprises en assurance Non-Vie et en assurance Vie au Luxembourg.

D'une part, ils ont noué un partenariat stratégique pour la commercialisation de contrats d'assurance Non-Vie pour les PME et les grands comptes, qui permettra de capitaliser sur l'expertise combinée des deux groupes. Pour les grands comptes, ce partenariat reposera sur une collaboration avec Allianz Global Corporate & Specialty, tandis qu'il se fera avec Allianz Benelux pour les PME.

D'autre part, Foyer Vie et le réseau Allianz Global Benefits étudient un modèle de coopération visant à fournir aux clients internationaux d'Allianz les meilleures solutions locales pour leurs



activités basées au Luxembourg, permettant à Foyer Vie de bénéficier de l'expertise internationalement reconnue et des solutions internationales de gestion des risques d'Allianz Global Benefits. Les négociations se finaliseront en 2022.



### Transfert du portefeuille local d'Allianz vers Foyer

Outre ces développements stratégiques, le Groupe Foyer et Allianz Luxembourg ont également signé un accord pour le trans-

fert vers Foyer des portefeuilles d'assurances actuellement gérés par Allianz Insurance Luxembourg, succursale d'Allianz Benelux S.A. basée en Belgique, et par Allianz Life Luxembourg S.A., sur le marché local, à savoir :

- les portefeuilles d'assurance Non-Vie pour les particuliers et les entreprises ;
- les portefeuilles d'assurance Vie pour les particuliers et les groupes («Employee Benefits»). Cette transaction est soumise à l'approbation du Commissariat aux Assurances pour les activités d'assurance Vie et de la Banque Nationale de Belgique pour les activités d'assurance Non-Vie.

### Une opération gagnant-gagnant

Par le transfert des portefeuilles luxembourgeois d'Allianz, le Groupe Foyer renforce sa position de leader du marché local de l'assurance, tandis qu'Allianz Luxembourg recentre sa stratégie autour de son activité d'assurance Vie internationale commerciale en libre prestation de services. À travers cette transaction et leur

rapprochement stratégique pour le futur, Foyer et Allianz unissent ainsi leurs forces et leur expérience au bénéfice de tous leurs clients.

**Marc Lauer** (photo), Administrateur-délégué de Foyer S.A. : "Au-delà d'un transfert de portefeuille, je vois dans le développement de synergies entre nos deux Groupes une réelle opportunité d'élargir nos activités auprès des entreprises, avec des produits d'assurances toujours plus robustes et adaptés à leurs besoins."

**Eric Winter** (photo), CEO d'Allianz Life Luxembourg S.A. et General Manager d'Allianz Insurance Luxembourg : "Avec le transfert de ses activités sur le marché local, Allianz Luxembourg renforce son positionnement de Hub européen d'expertise patrimoniale. Grâce à l'expertise de nos équipes et à la solidité financière de notre groupe, nous proposons, en Libre Prestation de Services, des solutions sur mesure et pérennes à nos clients HNWI et UHNWI."