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CAA Information Note on concept of insurance intermediary in group insurance contracts

On 24 January 2024, the CAA published information note 24/1 on the concept of insurance intermediary in the context of group insurance contracts.

On 24 January 2024, the Commissariat aux Assurances (**CAA**) published Information Note 24/1 on the concept of insurance intermediary in the context of group insurance contracts (**Note**).

1. Background

The Note comments on the Court of Justice of the EU's decision in TC Medical Air Ambulance Agency (C-633/20) dated 29 September 2022 (ECJ Decision). This held that an entity subscribing to an insurance policy and allowing its clients, in return for payment of a remuneration, to join the policy and be granted a right to the insurance benefits, qualifies as an insurance intermediary and accordingly as a distributor of insurance products within the meaning of Directive (EU) 2016/97 on insurance distribution (IDD).

2. CAA Position

According to the Note, the ECJ Decision implies that (i) the characterisation of an entity as a policyholder does not prevent that entity from also being an insurance intermediary, and (ii) in principle, the activity of allowing clients to benefit from the insurance policy subscribed constitutes an insurance intermediation activity.

The CAA confirms that the ECJ Decision is in line with the CAA's position. It states that entities that act as "Sponsors", by negotiating an insurance policy with an insurance undertaking for the benefit of clients with whom they have concluded a membership contract (contrat d'adh rence), should analyse their sponsoring activities carefully to evaluate whether they qualify as insurance distribution within the meaning of the IDD.

The Note provides a non-exhaustive list of elements that a Sponsor may consider when conducting the relevant analysis:

- whether the insurance cover is optional or compulsory;
- the role and responsibility of the policyholder/Sponsor;

- whether the insurance interest exists at the level of the client;
- the importance of the insurance product compared to the other products/services provided by the Sponsor;
- the characterisation of the client as insurance beneficiary under the insurance policy.

The CAA notes that, if a Sponsor is considered to be an insurance intermediary, they are subject to regulatory registration or licensing approvals and that the regulatory status of ancillary insurance intermediary could be appropriate in this situation. The CAA is available to review any Sponsor's analysis.

Finally, the Note emphasises that insurance undertakings are legally required to work with duly registered or approved intermediaries. Accordingly, the CAA expects Sponsors to take a proactive approach to ensuring that their partnerships comply with this legal obligation and with the ECJ Decision.

How we can help

Contact our experts from the Insurance & Reinsurance practice if you require any assistance with the application or implementation of the current insurance regulatory framework_

To read CAA Information Note 24/1, click here_ (French only)

To read the ECJ Decision, click here_

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