

## Gender Directive

### January 2012

HM Treasury committed to consult on changes to the UK Equality Act to implement the judgment of the European Court of Justice (ECJ) last March which removes the ability of insurers to use gender as a factor in pricing and benefits from 21 December 2012.

On 9 December 2011, HM Treasury published a [consultation](#) that acknowledges that UK legislation will seek to apply the judgment only to new contracts entered into after 21 December 2012. It also seeks views on other areas including:

- the continued collection of gender data;
- defining a new contract;
- indirect discrimination; and
- application to group schemes.

The EU Commission released [guidance](#) on 22 December on implementing the European Court of Justice's (ECJ) judgment. The guidance aims to clarify a series of issues identified during consultations with Member States and stakeholders. Among these clarifications, the guidelines underline that:

- the ECJ judgement only applies to new contracts entered into after 21 December 2012;
- provides specific examples of what is considered a 'new contract'; and
- examples of gender-related insurance practices which are compatible with the principle of unisex premiums and benefits. These practices range from the calculation of technical provisions to reinsurance pricing, medical underwriting and targeted marketing.

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### Updated on 1 March 2011

[The European Court of Justice has delivered its ruling](#) on the legality of the opt-out derogation. We are working with the industry and with relevant stakeholders to understand the practical implications of the judgment for firms and for consumers. In the meantime, where customers have any questions about the implications of this judgment, they should contact their firm or financial adviser.

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**14 February 2011**

A Belgian consumer group has challenged an opt-out under European law which allows insurance companies to use gender as a rating factor when pricing risk, provided certain conditions are met. The **European Court of Justice (ECJ) is expected to deliver their judgment on this case on 1 March 2011**. If the opt-out is deemed to be incompatible with European law, the outcome may have implications for insurance firms, advisers, intermediaries and consumers. The product areas most likely to be affected by such an outcome are:

- motor insurance;
- term life insurance;
- private medical insurance;
- critical illness insurance; and
- annuity products.

The sale and rating of other insurance products might also be affected. We do not expect firms to make any immediate changes to their policies or to proactively communicate with customers or prospective customers in advance of 1 March 2011. However we would expect that any immediate concerns or queries raised by consumers receive a response.

### **Next steps**

We will communicate further after the judgment has been delivered. In the interim, we expect firms to:

- keep up-to-date with any developments that may affect their business; and
- have plans in place to be able to react to such developments while maintaining adequate levels of service and care to consumers.

You can see previous communications on the Gender Directive in our [General Insurance](#) and [Life Insurance](#) newsletters from November 2010.