

**Comments Template on
 Consultation Paper on the proposal for Guidelines under the Insurance
 Distribution Directive on insurance-based investment products that
 incorporate a structure which makes it difficult for the customer to
 understand the risks involved**

**Deadline
 28 April 2017
 18:00 CET**

Name of Company:	Actuarial Association of Europe	
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<p>Please follow the following instructions for filling in the template:</p> <ul style="list-style-type: none"> ⇒ <u>Do not change the numbering</u> in the column "reference"; if you change numbering, your comment cannot be processed by our IT tool ⇒ Leave the last column <u>empty</u>. ⇒ Please fill in your comment in the relevant row. If you have <u>no comment</u> on a paragraph or a cell, keep the row <u>empty</u>. ⇒ Our IT tool does not allow processing of comments which do not refer to the specific numbers below. <p>Please send the completed template, in Word Format, to CP-17-001@eiopa.europa.eu.</p> <p>Our IT tool does not allow processing of any other formats.</p> <p>The numbering of the questions refers to the Consultation Paper on the proposal for Guidelines under the Insurance Distribution Directive on insurance-based investment products that incorporate a structure which makes it difficult for the customer to understand the risks involved</p>		
Reference	Comment	
General Comments	The question of complex products is of a broader scope than the "execution-only" distribution issue. To be deemed as complex may trigger mandatory comprehension	

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	<p>alert (PRIIPs), specific distribution arrangements and unduly negative bias towards the product. It is of critical importance with regards to products relying on the general account, which are widespread on many markets, and is equally relevant with regards to the IBIPs with multiple options (MOPs). When dealing with these MOPs products, it is of utmost importance to seek consistency with the MIFID prescriptions. This is necessary to ensure a level playing field without any distortion stemming from the fact that the funds are subscribed through an insurance contract or directly.</p> <p>For these MOPs products, there is often a possible confusion between the level of the contract and the level of the underlying investment options, which is frequently the most relevant level at which the complexity should be assessed.</p> <p>So we urge the regulator to be extremely careful about any criteria which could lead to a requirement to deem complex funds held inside an insurance contract which wouldn't have been deemed complex if they were directly held. Any gap or inconsistency would be detrimental for consumer understanding and sound judgement.</p> <p>No less importantly, in a financial environment of very low interest rates which may require operators to adapt their business model and which may lead consumers to revise their demands and needs, such market transition shouldn't be unduly impeded. That is why it is essential that the regulatory framework gives operators and consumers sufficient flexibility and legal protection to permit the evolution of market practice when this is necessary.</p>	
Question 1		
Question 2		
Question 3	According to our understanding, the general account seems to be addressed by the directive through the article 30.3.a(ii) and implicitly excluded from the scope of article	

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	<p>30.3.a(i). From an actuarial point of view, there is no reason why an insurance company's general (cover) asset in which retail investors do not invest directly should be generally regarded as more complex for customers than their UCITS funds counterpart. The same analysis prevails for similar investment options specific to insurance contracts, such as internal or ring fenced funds, which should be eligible under 30.3.a(i). This would ensure a level playing field with regard to product complexity between banks, asset managers and insurance companies.</p> <p>More generally, in line with Question 6, we think that the complexity of products relying on the general account should be assessed by taking into account the fact that they are often widespread products, that are well-known and well understood by consumers in their markets, and that their guarantee, even if it relates for some products only to the maturity value, should relegate the potential complexity of their management to a lower level. In such cases the financial instruments invested into by the insurer should not be deemed as relevant criteria.</p>	
Question 4		
Question 5	<p>The complexity of a product should be put into perspective, where this product is widespread within a local market, very well understood by distributors and familiar to customers.</p> <p>Therefore, local authorities should play a role in assessing the complexity of the products because they should be able, through their knowledge of the market, to weight this local market characteristic in a relevant manner. For the same reasons, whereas using examples may help to illustrate the regulator's intentions, as in Guideline 2 paragraph 3.a), it may not be sufficient to address the regulation objectives with the required legal certainty and precision. It seems in this view reasonable to encompass duly in the regulation the local level relevance in order to promote an adequate and appropriate assessment of product's complexity.</p> <p>For MOPs, with regards to paragraph 3.b of Guideline 2, in many cases, the insurance contract, and particularly its cost structure, doesn't add any significant complexity to the product in comparison to funds directly held by the consumer. We agree with the approach consisting of assessing the relative complexity at the ongoing costs level.</p>	

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Question 6	<p>The link between the advice and the consultation could be strengthened by ensuring more consistency and taking more into account the guaranteed maturity value. We agree that a capital guarantee is an important feature for an IBIP. The guaranteed maturity value as expressed in the IDD advice seems relevant. But the guaranteed minimum surrender value condition seems not so appropriate since such a condition, although often satisfied in the past, is not consistent, namely with the level of interest rates, with the mid-long term nature of insurance products, so that including such a condition could represent a detrimental incentive from a prudential perspective. We suggest removing the surrender value condition provided that the surrender value could be assessed on an objective basis with reference to the value of the assets.</p>	
Question 7		
Question 8		
Question 9		