

<p style="text-align: center;"><b>Comments Template on EIOPA-CP 11/007</b></p> <p style="text-align: center;"><b>Draft proposal for Report on</b></p> <p style="text-align: center;"><b>Good Practices for Disclosure and Selling of Variable Annuities</b></p>		<p style="text-align: right;"><b>Deadline</b> <b>03.01.2012</b> <b>12:00 CET</b></p>
Company name:	CEA – Insurers of Europe	
Disclosure of comments:	<p>EIOPA will make all comments available on its website, except where respondents specifically request that their comments remain confidential.</p> <p><i>Please indicate if your comments on this CP should be treated as confidential, by deleting the word <b>Public</b> in the column to the right and by inserting the word <b>Confidential</b>.</i></p>	Public
<p>The paragraph numbers below correspond to the questions raised in the grey boxes of EIOPA Consultation Paper No. 11/007.</p> <p><b>Please follow the instructions for filling in the template:</b></p> <ul style="list-style-type: none"> <li>⇒ <u>Do <b>not</b> change the numbering in column “Reference”, or any other formatting in the file.</u></li> <li>⇒ Please fill in your comment in the relevant row. If you have <u>no comment</u> on a question, keep the row <u>empty</u>. Please do not delete rows in the table.</li> <li>⇒ Our IT tool does not allow processing of comments which do not refer to the specific question numbers below. <ul style="list-style-type: none"> <li>○ If your comment refers to multiple questions, please insert your comment at the first relevant question and mention in your comment to which other questions this also applies.</li> </ul> </li> </ul> <p><b>Please send the completed template to <a href="mailto:CP_007@eiopa.europa.eu">CP_007@eiopa.europa.eu</a>, in MSWord Format, (our IT tool does not allow processing of any other formats).</b></p>		
<b>Reference</b>	<b>Comment</b>	
General Comment	<p>The CEA is of the view that the broad questions contained in the EIOPA report are not in line with the very specific considerations and recommendations it makes. Therefore, the CEA is not responding directly to the consultation questions, but rather providing a short note outlining our main points of concern.</p>	

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**Good Practices for Disclosure and Selling of Variable Annuities**

**1. Scope**

The CEA wishes to express its concerns about the scope and timing of this report from EIOPA. The European Commission, as part of its Packaged Retail Investment Products (PRIps) initiative, has been consulting on a selling and disclosure regime for packaged products and it is, as yet, unclear whether variable annuities will fall within the scope of PRIps. We are concerned therefore that EIOPA is setting out best practices while the debate on the most appropriate regime for PRIps is still ongoing.

Furthermore, the definition of variable annuities as set out by EIOPA in its consultation document requires clarification as to the intended scope, as the current definition – “unit-linked life insurance contracts with investment guarantees” – could capture a broader range of products than variable annuities. For example, investment-linked annuities and unitised with-profits funds both meet the definition. While these products do share some features with variable annuities, they work in a fundamentally different way. In particular, neither relies on complex hedging arrangements in order to back the guarantees offered to policy-holders.

**2. Complexity and risk**

The CEA is concerned about the extent to which the draft report confuses the issue of the complexity of variable annuities with the level of risk to the consumer. Complex products do not necessarily mean high risk for the consumer. The interaction between the level of risk to the consumer and the complexity of the product needs to be properly taken into account. While variable annuities may employ relatively “complex” structures, particularly with regard to the guarantees offered, this does not necessarily result in risk for the consumer. In fact, complex structures are often aimed at delivering less risky outcomes for investors.

It should also be pointed out that the risk associated with offering guarantees in variable annuities is borne by the insurer, not the policy holder, and the report provides no evidence of these products resulting in consumer detriment.

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Rather than using the complexity of product structures as the basis on which to develop disclosure and selling practices, we believe EIOPA should focus on the potential outcomes of the investment including the variability, volatility and risks to the outcome for the consumer.

**3. Cross-border business**

The CEA is surprised that from the cross-border nature of the VA-business increased information requirements are derived. So far, we are of the impression that the EU wants to promote cross-border business. In this respect it is in our view incoherent, to impose special information requirements for cross-border business, i.e. information on the undertaking and the supervisory regime. It also contradicts the approach to inform the customer in a short and concise way. We believe that a consumer would not expect lengthy explanations about undertaking "x" and supervisory regime "y", when he is interested in a product "z".

**4. Pre-contractual information disclosure**

The CEA supports a high level of consumer protection for all consumers buying insurance products but as insurance distribution markets vary significantly across Europe, a prescriptive regulatory approach may have negative implications both for markets and consumers. This is particularly so when it comes to the pre-contractual information that must be disclosed to consumers.

The EIOPA report proposes that best practice would adopt a question and answer format for disclosures and recommends providing the answers to 35 "frequently asked questions" as a way of communicating the relevant information. However, the provision of such a high amount of information would appear to go against the objective of streamlining pre-contractual information to allow consumers to make an informed choice. The CEA wishes to remind EIOPA of the Report of the 3L3 Task Force on PRIPs<sup>1</sup>, which stressed the importance of adhering to the principles of

<sup>1</sup> Report of the 3L3 Task Force on Packaged Retail Investment Products (PRIPs), October 2010 (CEIOPS-3L3-54-10).

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proportionality and materiality in developing product disclosure requirements, stating that disclosure should be a concise body of relevant and comparable information that can be understood by the investor and does not overwhelm or confuse the investor with too much information.

Furthermore, the questions laid out in the report are referred to as being “indicative and not exhaustive”. The report states that notwithstanding these questions, insurance companies must also follow all legal and regulatory requirements which they are subject to.

In this respect, the CEA wishes to stress the need to avoid duplication of disclosure requirements regarding pre-contractual information, particularly when it is not clear whether variable annuities will fall under the scope of the PRIPs initiative, as otherwise there is a risk of information overload that may result in hindering efforts to improve the situation for consumers.

**5. Advice & conduct of business**

The CEA notes that in this report EIOPA appears to be proposing the sale of all variable annuities on an advised basis only. It is not fully clear what the intention is here, but we are concerned that linking the notions of complexity and the level of risk to the consumer may unnecessarily prohibit the sale of certain products to consumers on a non-advised basis. This may impede innovation within the market and consumer choice.

Consumers do not always need or request advice. Therefore, it is important to ensure that the non-advised sale of insurance products in certain situations remains possible, such as when requested by the customer or where there is a low risk to the consumer. The consumer should remain of course always free to seek advice, but advice should not be imposed when specifically declined by the customer. It is crucial that non-advised sales may continue, so as not to limit or interfere with consumer choice, and to prevent restricting a consumer’s ability to access products if advice were mandatory and he/she were not in a position to afford such advice. In any case, it should not be forgotten that even in the case of non-advised sales, all relevant pre-contractual and contractual information requirements will still be followed.

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Q1.	See CEA's comments under "General Comment"	
Q2.	See CEA's comments under "General Comment"	
Q3.	<p>As stated in CEA's comments under "General Comment", the CEA supports a high level of consumer protection for all consumers buying insurance products but as insurance distribution markets vary significantly across Europe, a prescriptive regulatory approach may have negative implications both for markets and consumers. This is particularly so when it comes to the pre-contractual information that must be disclosed to consumers.</p> <p>The EIOPA report proposes that best practice would adopt a question and answer format for disclosures and recommends providing the answers to 35 "frequently asked questions" as a way of communicating the relevant information. However, the provision of such a high amount of information would appear to go against the objective of streamlining pre-contractual information to allow consumers to make an informed choice. The CEA wishes to remind EIOPA of the Report of the 3L3 Task Force on PRIPs<sup>2</sup>, which stressed the importance of adhering to the principles of proportionality and materiality in developing product disclosure requirements, stating that disclosure should be a concise body of relevant and comparable information that can be understood by the investor and does not overwhelm or confuse the investor with too much information.</p> <p>Furthermore, the questions laid out in the report are referred to as being "indicative and not exhaustive". The report states that notwithstanding these questions, insurance companies must also follow all legal and regulatory requirements which they are subject to.</p> <p>In this respect, the CEA wishes to stress the need to avoid duplication of disclosure requirements regarding pre-contractual information, particularly when it is not clear whether variable annuities will fall under the scope of the PRIPs initiative, as otherwise there is a risk of information overload that may result in hindering efforts to improve the situation for consumers.</p>	

<sup>2</sup> Report of the 3L3 Task Force on Packaged Retail Investment Products (PRIPs), October 2010 (CEIOPS-3L3-54-10).

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Q6.	See CEA's comments under "General Comment"	
Q7.	See CEA's comments under "General Comment"	
Q8.	See CEA's comments under "General Comment"	
Q9.	See CEA's comments under "General Comment"	
Q10.	See CEA's comments under "General Comment"	
Q11.	See CEA's comments under "General Comment"	
Q12.	See CEA's comments under "General Comment"	
Q13.	See CEA's comments under "General Comment"	
Q14.	See CEA's comments under "General Comment"	
Q15.	See CEA's comments under "General Comment"	