

<p align="center">Comments Template on EIOPA-CP 11/007</p> <p align="center">Draft proposal for Report on</p> <p align="center">Good Practices for Disclosure and Selling of Variable Annuities</p>		<p align="right">Deadline 03.01.2012 12:00 CET</p>
Company name:	Fédération des Associations Indépendantes de Défense des Epargnants pour la Retraite (FAIDER)	
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 Public in the column to the right and by inserting the word Confidential.</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>Please follow the instructions for filling in the template:</p> <ul style="list-style-type: none"> ⇒ <u>Do not change the numbering in column “Reference”, or any other formatting in the file.</u> ⇒ 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. ⇒ 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"> ○ 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. <p>Please send the completed template to CP_007@eiopa.europa.eu, in MSWord Format, (our IT tool does not allow processing of any other formats).</p>		
Reference	Comment	
General Comment	<p>The Federation des Associations Indépendantes de Défense des Epargnants pour la Retraite (FAIDER) welcomes the opportunity to comment on the draft proposal for EIOPA's Report on Good Practices for Disclosure and Selling of Variable Annuities (the “Report”) and thanks EIOPA for launching this consultation.</p>	

Comments Template on EIOPA-CP 11/007

Deadline
03.01.2012
12:00 CET

Draft proposal for Report on

Good Practices for Disclosure and Selling of Variable Annuities

FAIDER (Fédération des Associations Indépendantes de Défense des Epargnants pour la Retraite) is a French organization which federates several associations of life policyholders, savers and small investors, representing more than 1 million of members. In 2010, mathematical provisions of FAIDER members accounted for more than 40 billions of Euros. FAIDER is an active member of the French ACP Commission des Pratiques Commerciales and of the French AMF Commission des Epargnants and participate actively to the retail investor and consumers consultations organized by EIOPA and ESMA. In order to be more proactive and to be better heard at the European level, FAIDER created EuroInvestors (the European Federation of Investors or EFI) with Euroshareholders and other European associations, in the summer of 2009.

For further details please see our website: www.faider.org.

Before answering to the consultation questions, FAIDER would like to point out the following important issues:

Firstly, FAIDER regret that the questions for public consultation raised in this report are clearly targeted for the undertakings and not for customer organizations. This is maybe due to a certain lack of representatives of these organizations in the groups and task forces that have written this report and make the preceding studies.

We hope and very strongly recommend to EIOPA to involve more representatives of customer and savers organizations in its expert groups and committee following the example of others European bodies.

Secondly, we consider that VA products should be classified as PRIPS as should be all other more "traditional" classical and with profit life insurance products and that therefore they should be no difference of treatment or disclosure between those products which are all purchased for investment or retirement purposes.

In fact VA products offer a different approach from that of these traditional products, but the same

Comments Template on EIOPA-CP 11/007

Deadline
03.01.2012
12:00 CET

Draft proposal for Report on

Good Practices for Disclosure and Selling of Variable Annuities

	<p>objective of providing benefits for retirement. It is therefore very important to ensure a good level of comparability between these products when advised to the client and so they should not be subject to significantly different rules.</p> <p>Therefore we consider that EIOPA's recommendations for VA products concerning products features, costs transparency, level of products charges, selling practice and intermediary due diligence, apply also to the other traditionnal life and annuities products.</p> <p>We nevertheless recognize that VA products are complex in the sense that they incorporate (or are a mix of) two different categories of life insurance products: traditional with profit on one hand and annuities on the other hand.</p> <p>It is therefore also very important that these products should be sold only on an advised basis and that the risks inherent to these products in term of negative performance, consumption of capital at the beginning of the payoff period, if any be very clearly stated.</p> <p>In order to insure a satisfactory level of fairness and accuracy we would welcome the use of independent experts, actuaries or financial experts, which would assess the merits of these products for the small investor according to some predefined objectives.</p>	
Q1.	<p>Are documents that communicate the key features of the product (Key Feature Documents) used for Variable Annuities? What features do they contain?</p> <p>Although there is no a unique mandatory Key Information Document (KID) as in the UCITS market, a key feature document is already used in many countries like in France of example where this document called "encadré" which is mandatory, provides the following information :</p> <ol style="list-style-type: none">1) Type of contract2) The contract guarantees3) Participation in profits	

Comments Template on EIOPA-CP 11/007

Deadline
03.01.2012
12:00 CET

Draft proposal for Report on

Good Practices for Disclosure and Selling of Variable Annuities

- 4) Right of partial or total redemption
- 5) Costs incurred under the contract
- 6) Contract Period
- 7) Beneficiary Designation

The purpose of this “encadré” is to give to the client the minimum necessary information on the product and the possibility to compare its features to the others. Besides this document a “note d’information” has also to be provided which will contain much more detailed information about the product, its features, the guarantees, the costs, etc..., the insurance company, the country and the laws and regulations under which the undertaking operates, the national supervisory authority and the complaint handling procedures.

Concerning complex products like VA, such an “encadré” will not be sufficient and should be replaced by a Key Information Document which should be mandatory for all insurance PRIPS and would detailed more precisely the features of the product :

- its guarantees,
- the consolidated and detailed costs at inception and during the life of the product,
- the possible outcomes through different positive and negative scenarios,
- the minimum underlying units performance required to offset all charges on a real (net of inflation) basis,
- the past performance of the underlying assets
- and more globally all necessary information to understand completely how the product works, what are the risks assumed, what are the reward to be expected from such an investment.

As we have pointed out in our general comments , in order to insure a satisfactory level of fairness and accuracy we would welcome the use of independent experts, actuaries or financial experts, which would assess the merits of these products for the small investor according to some predefined objectives.

Comments Template on EIOPA-CP 11/007

Deadline
03.01.2012
12:00 CET

Draft proposal for Report on

Good Practices for Disclosure and Selling of Variable Annuities

	Indeed, “dependent” advice (in the sense of article 24 of the MiFID proposal of 20 October 2011) must be avoided in particular for VA which are complex but also highly charged products.	
Q2.	<p>What kinds of benefits may flow from the use of such a key features document by insurance undertakings?</p> <p>As said in Q1, the purpose of a key features document is to put the consumer in a better position to understand, evaluate and compare products. A KII type document for insurance PRIPS, which we strongly recommend, will benefit the consumer by highlighting the most important aspects of the product in a short and readily understandable manner to enable comparison and the making of an informed decision. If information is clear, understandable and not misleading this will also reduce the risk of customer complaints and mis-selling.</p>	
Q3.	<p>Do you consider FAQ as a useful way of presenting pre-contractual information? What other alternatives do you consider appropriate?</p> <p>The use of “frequently asked questions” is certainly a good way of communicating relevant information, but it should not be considered as sufficient for several reasons: it cannot cover all cases and the questions (and answers) being selected by the undertakings, may be biased in favour of the insurer.</p>	
Q4.	<p>During the life of the contract how do providers inform customers on the performance of their VA contract?</p> <p>As far as we know, the customers are informed in writing or through the provider’s client extranet service about the performance of their VA contract (i.e. fund value) on a regular basis (usually annually or more frequently) or at any time upon request of the customer.</p>	

Comments Template on EIOPA-CP 11/007

Deadline
03.01.2012
12:00 CET

Draft proposal for Report on
Good Practices for Disclosure and Selling of Variable Annuities

Q5.	<p>Which scenarios should providers use to illustrate potential payouts to customers?</p> <p>First of all, the scenarios must be probable ones, not improbable ones, so not as to mislead customers (providers can assess rough probabilities using rebuilt past performance and volatility data for example).</p> <p>In our opinion specimen calculations as provided for in Article 185 (5) of the Solvency II directive is not a valuable and sufficient tool to illustrate potential payouts to customers. In fact the complexity of VA products make it necessary the use of complex scenarios, due to the variety of possible cases and their impact on the possible outcomes.</p> <p>For example it may be appropriate for the supervisory authority to provide scenarios on how different market developments (e.g. sharp market downturn or prolonged market downturn) could impact the product.</p> <p>These illustrations should show the effect of charges not only by means of a reduction in yield or similar methodology but also directly on the capital.</p> <p>They should be submitted to an independent examination by independent experts to ensure their fairness and accuracy.</p>	
Q6.	<p>Which unfavourable scenarios should always be presented?</p> <p>It is not easy to define in absolute unfavourable scenarios because they depend on the features of the products. Absolute scenarios should be defined in relation to the maximum risk of losses incurred by the beneficiary under unfavourable market circumstances.</p> <p>However, it is difficult to provide a general answer to this question, as the relevance of unfavourable</p>	

Comments Template on EIOPA-CP 11/007

Deadline
03.01.2012
12:00 CET

Draft proposal for Report on

Good Practices for Disclosure and Selling of Variable Annuities

	<p>scenarios often depend on the type of VA product being offered. For instance, a one-off steep market drop or a prolonged market downturn may be appropriate (non-individualised) scenarios to present, depending on the impact that these scenarios would have on the benefit to the customer. In our view, it is most important to ensure that the customer is aware of the maximum investment risk (see below). The presentation of other scenarios simply helps underline the fact that a wider range of outcomes is possible. Anyway, these scenarios should be submitted to an independent examination by independent experts to ensure their fairness and accuracy.</p>	
Q7.	<p>How should the maximum risk assumed by the customer be illustrated?</p> <p>In most VA products they are two risks that are supported by the beneficiary. One relates to the negative performance net of inflation and of taxes of the premiums paid. It is linked also to the level of the guarantee provided. In providing this information, any conditions attaching to a guarantee should be clearly stated. If there are conditions attaching to a guarantee, a statement should be added that the return to the policyholder may be less than the guaranteed amount. Another one relates to the speed of capital consumption during the first payout years, which will cancel more or less quickly the possibility of repurchase and therefore the capital guarantee.</p> <p>Here again there is a need of independent expertise to ensure a sufficient level of fairness and accuracy.</p>	
Q8.	<p>What kinds of benefits may flow from the use of illustrations by insurance undertakings?</p> <p>Illustrations can help give customers an understanding of what payouts they may receive and what it might cost them in a given set of circumstances. They may also make the product more transparent and easier for the customer to understand subject to clear caveats that these do not give any promise of future benefits.</p>	

Comments Template on EIOPA-CP 11/007

Deadline
03.01.2012
12:00 CET

Draft proposal for Report on

Good Practices for Disclosure and Selling of Variable Annuities

Q9.	<p>What are the distribution channels used in your market?</p> <p>As far as we know, all distributions channels are being used: insurance employees, agents, insurance brokers (traditional or internet based), financial “advisors”, etc.</p>	
Q10.	<p>Are these products also distributed via direct sales in your market?</p> <p>Yes and we consider that the same requirements should apply to all distribution channels not just insurance intermediaries as currently defined in the IMD.</p>	
Q11.	<p>What type of information does the sales person need to have on the customer prior to giving advice / making a recommendation?</p> <p>Prior to recommending a VA product (or any other insurance product) to a customer a sales person need to know :</p> <ul style="list-style-type: none">a. the age of the customerb. the purpose of the investment : saving for retirement or investment opportunityc. the time horizon for the investment (short, medium or long-term)d. the customer's financial situatione. the customer's knowledge of financial products and markets <p>He or she should also propose alternative products which may also be suitable for the consumer and disclose any possible conflict of interest as well as the remunerations and incentives he or she will receive following the sale of the product.</p> <p>However as previously stated we believe that if the consumer so requires then an execution only sale (or one where less than full information is provided) should be permitted</p>	

<p>Comments Template on EIOPA-CP 11/007</p> <p>Draft proposal for Report on</p> <p>Good Practices for Disclosure and Selling of Variable Annuities</p>		<p>Deadline 03.01.2012 12:00 CET</p>
Q12.	<p>Does it matter in relation to selling practices for which purpose the product is offered (retirement saving vs. investment solution)?</p> <p>Yes because a GMIB VA product which will guaranty minimum income benefit may not be suitable for a person looking for a short or medium term investment whereas a guaranteed minimum accumulation benefit product should be more appropriate, this depending also on the age of the policyholder. Conversely GMIB or GMWB products could be recommended to people who are saving for retirement.</p>	
Q13.	<p>Does it matter which type of guaranteed minimum benefit is offered?</p> <p>Yes, see our response to questions 11 and 12. Because of the diversity of guaranteed minimum benefits, it is important that the VA product offered to the customer be adapted to the customer's personal objectives and requirements.</p>	
Q14.	<p>In which instances, if any, should an insurance intermediary present variable annuities, if he informs the customer that he gives his advice on the basis of an analysis of a sufficiently large number of insurance contracts (Article 12 (2) IMD)? Should this principle also apply to any other sales person?</p> <p>See our response above to questions 11 to 13.</p> <p>VA products have to be considered as alternatives to other savings and life insurance products. For example, they could be proposed together with classical with profit life insurance products, unit-linked products based on guaranteed units, or even annuities products.</p> <p>In all cases the specificities of each product in terms of guarantees, costs transparency, possible outcome should be clearly stated and explained.</p>	

Comments Template on EIOPA-CP 11/007

Deadline
03.01.2012
12:00 CET

Draft proposal for Report on

Good Practices for Disclosure and Selling of Variable Annuities

	We are of the view that the same principles should apply to sales persons presenting a VA product who are only providing advice with respect to a limited number of insurance contracts, as these are the vast majority of financial distributors in continental Europe.	
Q15.	<p>In relation to the due diligence on insurance intermediaries are there any other good practices that providers should consider?</p> <p>VA products are life insurance products and any good practices used for traditional life products are relevant for them. This will automatically apply if all these products are classified in the same category of insurance PRIPS.</p>	