	Comments Template on EIOPA-CP 11/007 **Draft proposal for Report on** **Good Practices for Disclosure and Selling of Variable Annuities**	**Deadline** **03.01.2012** **12:00 CET**
Company name:	Association of British Insurers	
Disclosure of comments:	EIOPA will make all comments available on its website, except where respondents specifically request that their comments remain confidential. *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**.*	Public
	The paragraph numbers below correspond to the questions raised in the grey boxes of EIOPA Consultation Paper No. 11/007. **Please follow the instructions for filling in the template:** ⇨ Do **not** change the numbering in column "Reference", or any other formatting in the file. ⇨ Please fill in your comment in the relevant row. If you have no comment on a question, keep the row empty. 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. o 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. **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).**	
Reference	**Comment**	
General Comment	The ABI welcomes the opportunity to respond to EIOPA's Draft Report on Good Practices for Disclosure and Selling of Variable Annuities. The ABI is the voice of the UK's insurance, investment and long-term savings industry. It has over	

300 members, which together account for around 90% of premiums in the UK domestic market. The UK insurance industry is the third largest in the world and the largest in Europe. Employing more than 300,000 people in the UK alone, it is an important contributor to the UK economy and manages investments of £1.5 trillion, over 20% of the UK's total net worth.

The ABI's registration number on the European Commission's Register of Interest Representatives is: 730137075-36.

General comments

The ABI attaches great importance to providing consumers with appropriate and clearly presented information to enable them to make informed investment decisions. Consumers need to have confidence in both the market and the firms operating within it. To achieve this we support moves to increase transparency, tackle the asymmetry of information between consumers and product providers and enable comparison between investment options.

However, we have some concerns about the scope and timing of this report. The European Commission, as part of the 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 scope. We are concerned that EIOPA is setting out best practice while the debate on the most appropriate regime for packaged products is still on going.

Furthermore, in making recommendations for best practice, the draft report does not appear to have taken account of developments on the PRIPs initiative. For PRIPs, the Commission is proposing using the Key Investor Information Document (KIID) developed for UCITS as the basis for disclosure while the approach to selling will be based on the rules within MiFID. In its report, EIOPA proposes that best practice would be a question and answer format for disclosure while selling would be done on a "demands and needs" basis. The departure from the proposed approach for PRIPs gives rise to concerns about potential inconsistencies in the treatment of variable annuities and packaged products more generally.

Definition of variable annuities

We urge EIOPA to clarify the definition of variable annuities. In the UK, variable annuities may take a number of forms, for example a pension product or a bond. They are regulated as income drawdown (under the Finance Act 2004) and are distinct from other kinds of annuities because they are individual contracts that do not contain any element of mortality pooling. Though variable annuities are a specialist part of the UK annuities market, the value of sales has grown from £530m in 2007 to approximately £1bn in 2010 (source: Towers Watson).

The definition as currently set out by EIOPA, "unit-linked life insurance contracts with investment guarantees" would capture a broader range of products than what is understood and sold as a variable annuity in the UK; for example investment-linked annuities and unitised with-profits funds both meet the definition. While these products may share some features with UK variable annuity products, they do not necessarily rely on complex hedging arrangements in order to back the guarantees offered to policyholders. Since it is these complex hedging arrangements, and the subsequent cost that they add to policyholders, which is the basis for concern, we query whether EIOPA intended the definition to apply to products which do not have such a structure and urge them to provide greater clarity about the intended scope.

Complexity and risk

We are concerned about the extent to which the draft report conflates the complexity of variable annuities with the actual risk to the consumer. Whilst variable annuities may employ relatively 'complex' structures, particularly with regard to the guarantees offered, this does not necessarily equate to risk for the consumer. Complex structures are often aimed at delivering less risky outcomes for investors.

In particular, it should be noted 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. Indeed, the ABI has not seen any evidence of detriment arising from the sale of these products within the EU.

Rather than using the complexity of product structures as the basis on which to develop disclosure and selling practices, the ABI believe EIOPA should focus on the potential outcomes of the investment including the variability, volatility and risks to the outcome for the consumer. In doing so, they would be able to establish more clearly which products required greater levels of consumer protection, using an approach which would apply equally across all financial instruments from shares to packaged products.

Disclosure

Notwithstanding our concerns about the timing of this report vis-à-vis the PRIPs initiative, we believe that, in recommending answers to 35 FAQs, the report highlights the challenge of using the UCITS KIID for products. Namely the difficultly of providing all necessary information within a two page document.

The ABI is supportive of the need to provide good quality product information to consumers,

	however, we have always expressed concern about the plan to use the two page KIID as the benchmark for product disclosure. We believe that the approach set out in this report (the use of FAQs under set headings, allowing flexibility for length and layout) may be more appropriate going forward. Nevertheless, we also believe that the list of questions set out in this report is long and overly-prescriptive. Balance must be sought between providing enough information so that consumers can make informed choices and comprehensive documents which are so detailed that they hinder consumer engagement with, and understanding of, the information provided.	
Q1.	UK regulation requires the production of a “key features document” for all packaged products, including variable annuities. The document must include enough information about the product so that a *retail client* would be able to make an informed decision about whether to proceed. A key features document for a packaged product must: 1. Include the title ‘key features of the [name of product]’ 2. Describe the product in the order of the following information: ‘Its aims’ — A brief description of the product’s aims ‘Your commitment’ or ‘Your investment’ — What a retail client is committing to or investing in and any consequences of failing to maintain the commitment of the investment	

	'Risks' — The material risks associated with the product, including a description of the factors that may have an adverse effect on the performance or are material to the decision to invest. 'Questions and Answers' — (in the form of questions and answers) the principle terms of the product, what it will do for a retail client and any other information necessary to make an informed decision. In addition, firms are required to produce, for all packaged products, a key features illustration setting out appropriate charges information including a description of the nature and amount of the charges a client may be expected to bear, an 'effect of charges' table, and 'reduction in yield' information. The illustration must also include a projection showing benefits at the lower, intermediate and higher rates of return.	
Q2.	Key features documents should provide a clear and balanced summary of the pros and cons of product and in doing so enable consumers to make informed decisions and comparisons between products and providers.	
Q3.	Yes. The FAQ format is widely used in the UK for pre-contractual disclosure.	
Q4.	One provider confirmed that they provide policyholders with an annual benefit statement highlighting the level of their funds and the level of their guarantees. In additions clients have the option to ask	

	for ad-hoc valuations at any time.	
Q5.	The KFI requires the production of an illustration showing the benefits at lower, intermediate and higher rates of return, taking into account the effect of inflation and charges. For variable annuities, the Financial Services Authority (FSA) sets the rates of return at 5% (lower), 7% (intermediate) and 9% (higher). However, the standardised projection must use lower rates of return if the rates set by the FSA overstate the investment potential of the variable annuity.	
Q6.	Where the value of the capital is at risk from fluctuations in the stock market, this should be explained to the consumer. As the report states, the risk in providing the guarantees associated with a variable annuity is taken on by the firm. The only circumstance in which the firm would not meet these commitments would be if it were insolvent. Though an unlikely event, the impact on the consumer if the firm went into insolvency should also be explained.	
Q7.	As the consultation states, when purchasing a variable annuity, policyholders are usually given a number of choices and options, for instance in relation to fund selection, which they can exercise at inception or during the life of the contract. As such, we are particularly concerned about the suggestion that disclosure documents should provide an indication of risk using the same approach as that used for UCITS. We are supportive of producing a single risk rating at the fund level, however, there are significant challenges to attempting to produce one for a product that could potentially be invested in multiple funds. In addition to the issue of developing an accurate methodology for a risk rating at the product level, there are other significant limitations. For example, the existing risk indicator is a volatility measure which takes no account of an individual’s circumstances or the broader outcomes for the	

	consumer. Though there are benefits to standardised risk/reward indicator, it must be acknowledged that this may not be possible at the product level and other otions, such as a narrative approach, should be considered.	
Q8.	The purpose of illustrations is to give consumers an understanding of how their investment might perform over time and the effect that charges and inflation will have. This is important in helping consumers compare and choose the appropriate product for their needs as well as helping them plan their finances efficiently.	
Q9.	Variable annuities (as understood in the UK) are sold via financial advisors.	
Q10.	No. However, we are concerned that the conflation between complexity and risk to consumer outcomes by EU regulators may unnecessarily prohibit the sale of products on an execution-only basis. This may impede innovation within the market and consumer choice. We urge EIOPA to base decisions on selling based on the outcomes for consumers, rather than complexity.	
Q11.	In the UK, existing regulation is based on the MiFID suitability requirements. UK regulation therefore requires that, when making a recommendation on the sale of a packaged product, the salesperson must assess the suitability of a product and obtain information regarding the client's: • knowledge and experience in the investment field relevant to the specific type of investment or service; • financial situation; and • investment objectives;	

	This is so the advisor can ensure: • that the product meets the clients investment objectives; • that the client is able financially to bear any related investment risks consistent with his investment objectives; and • that the client has the necessary experience and knowledge in order to understand the risks involved in the transaction or in the management of his portfolio. The information regarding the investment objectives of a client must include, where relevant, information on the length of time for which he wishes to hold the investment, his preferences regarding risk taking, his risk profile, and the purposes of the investment. The information regarding the financial situation of a client must include, where relevant, information on the source and extent of his regular income, his assets, including liquid assets, investments and real property, and his regular financial commitments.	
Q12.	In practice, the reasons for purchasing a variable annuity are key to establishing if it is the appropriate product for the consumer. For example, where a consumer is purchasing a variable annuity for retirement purposes it is necessary to establish certain facts such as when the individual expects to be able to take income and whether they want to provide for a spouse. However, for the purposes of regulation, it is not necessary to be overly prescriptive since a high level suitability requirement can be adapted to the particular circumstances of the product/consumer.	
Q13.	Yes. The consumer's circumstances, their reasons for purchasing a variable annuity and the associated costs will determine which benefit is most appropriate for them.	
Q14.	We would not support a requirement forcing advisors to present variable annuities where they did not	

	feel suitably informed about the product. These are specialist products, often aimed at high net worth individuals and it would be inappropriate to make it a requirement for all intermediaries to present them to consumers as there is a danger that they may not understand them well enough to recommend them.	
Q15.	The ABI is opposed to suggestions which introduce a responsibility on product providers to ensure that advisors and intermediaries understand the products they are selling. In the UK providers are subject to general TCF requirements on product governance and can assist imtermediaries by providing sufficient information on products. However, responsibility for ensuring understanding the products they are advising on sits with the intermediary. It is important, in terms of accountability, that there is no confusion over where responsibility lies.	