

**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**

Company name:	The European Federation of Investors (EuroInvestors)	
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 not 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	The European Federation of Investors (EuroInvestors) 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").	

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The European Federation of Investors and other financial services users (“EuroInvestors”) was created in 2009, following the financial crisis which demonstrated the limits of the almost exclusive dialogue between regulators and the financial industry, largely ignoring the user side. EuroInvestors is the dedicated European representative of the interests of the financial services users in order to promote training, research and information on investments, savings, life insurance, pensions, borrowings and Personal Finances of individuals in Europe, by grouping the organisations pursuing the same objectives at a national or international level.

Already about 50 national organizations of investors and other financial services users have joined us, which – in turn – count more than four million European citizens as members.

EuroInvestors has experts participating to the EC Financial Services User Group, to the Securities & Markets, the Banking and the Pensions Stakeholder Groups of the European Supervisory Authorities. Its national members also participate in the national financial regulators and supervisors bodies when allowed. For further details please see our website: [www.euroinvestors.org](http://www.euroinvestors.org).

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

Firstly, EuroInvestors regrets that the questions for public consultation raised in this report are clearly targeted to the insurance industry and insurance distributors, and not to customer organizations. This is maybe due to a certain lack of representatives of customer organizations in the EIOPA stakeholder groups and task forces that have written this report and made the preceding studies.

We hope and very strongly recommend EIOPA to involve more representatives of customer and

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savers organizations in its expert groups and committees following the example of the other 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. There should be no difference of treatment or disclosure between those products which are purchased for investment or retirement purposes.

In fact VA products offer a different approach from that of these traditional products, but the same objective of providing benefits for retirement. It is therefore very important to ensure a good level of comparability between these products when advising to the client and they should not be subject to significantly different rules.

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 traditional life and annuities products.

Nevertheless, we want to stress that VA products are very complex in the sense that they incorporate (or are a mix of) two different categories of life insurance products: traditional with profit or unit-linked on one hand and annuities on the other hand.

It is therefore very important that these products should be sold only on an independent advise basis and that the risks inherent to these products in terms of negative real performance, consumption of capital at the beginning of the payoff period, if any be very clearly stated.

In order to insure a satisfactory level of fairness and accuracy we would welcome the use of independent experts, actuaries or financial experts, who would assess the merits of these products

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	for a small investor according to some predefined objectives.	
Q1.	<p>Although there is no unique mandatory Key Information Document (KID) as in the UCITS market, a key feature document is already used in many countries like in France for example, where this document called "encadré" is mandatory and provides the following information :</p> <ol style="list-style-type: none"><li>1) Type of contract</li><li>2) The contract guarantees</li><li>3) Participation in profits</li><li>4) Right of partial or total redemption</li><li>5) Costs incurred under the contract</li><li>6) Contract Period</li><li>7) Beneficiary Designation</li></ol> <p>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 with those of the other products. Besides this document, a "note d'information" has also to be provided and contains 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.</p> <p>Concerning complex products like VA, an "encadré" is not be sufficient and should be replaced by a Key Information Document which should be mandatory for all insurance PRIPs and <b>would detail</b> more precisely the features of the product:</p> <ul style="list-style-type: none"><li>- <b>its guarantees,</b></li></ul>	

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	<ul style="list-style-type: none"> <li>- the consolidated and detailed costs at inception and during the life of the product,</li> <li>- the possible outcomes through different positive and negative scenarios,</li> <li>- the minimum underlying units performance required to offset all charges on a real (net of inflation) basis,</li> <li>- the past performance of the underlying assets</li> <li>- and more globally all necessary information to understand completely how the product works, what are the risks assumed, what are the rewards to be expected from such an investment.</li> </ul> <p>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, who would assess the merits of these products for a small investor according to some predefined objectives. <b>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.</b></p>	
Q2.	As pointed in answer to 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, and will enable comparison and an informed decision. If information is clear, understandable and not misleading this will reduce the risk of customer complaints and mis-selling.	
Q3.	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	

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	insurer.	
Q4.	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.	
Q5.	<p><b>First of all, the scenarios must be the probable ones, not improbable ones, in order not to mislead customers (providers can assess rough probabilities using rebuilt past performance and volatility data for example).</b></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 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.	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	

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	<p>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 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.</p> <p>Anyway, these scenarios should be submitted to an independent examination by independent experts to ensure their fairness and accuracy.</p>	
Q7.	<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 also linked to the level of the guarantee provided. In providing this information, any conditions attached to a guarantee should be clearly stated. If there are conditions attached 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 the 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>Illustrations can help to 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 a customer to understand subject to clear caveats that these do not give any promise of future benefits.</p>	
Q9.	<p>As far as we know, all distributions channels <b>are being used: insurance employees, agents,</b></p>	

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	<b>insurance brokers (traditional or internet based), financial “advisors”, etc.</b>	
Q10.	Yes and we consider that the same requirements should apply to all distribution channels not just insurance intermediaries as currently defined in the IMD.	
Q11.	<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"> <li>a. the age of the customer</li> <li>b. the purpose of the investment: saving for retirement or investment opportunity</li> <li>c. the time horizon for the investment (short, medium or long-term)</li> <li>d. the customer's financial situation</li> <li>e. the customer's knowledge of financial products and markets</li> </ul> <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 requires so, an execution only sale (or one where less than full information is provided) should be permitted</p>	
Q12.	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	



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	for retirement.	
Q13.	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.	
Q14.	<p>See our responses to questions 1, 11 to 13.</p> <p>VA products have to be considered as alternatives to other savings and life insurance products.</p> <p>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 and a possible outcome should be clearly stated and explained.</p> <p>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, <b>as these are the vast majority of financial distributors in continental Europe.</b></p>	
Q15.	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.	