

**Comments Template on
Consultation Paper on Technical Advice on possible delegated acts
concerning the Insurance Distribution Directive**

**Deadline
3 October 2016
18:00 CET**

Name of Company:	Unipol Gruppo Finanziario S.p.A.	
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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-16-006@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 Technical Advice on possible delegated acts concerning the Insurance Distribution Directive</p>		
Reference	Comment	
General Comment		
Question 1		
Question 2	Taking into consideration the "Feedback Statements to the Second Public Consultation" on "Preparatory Guidelines on Product Oversight and Governance"	

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	<p>Arrangements by Insurance Undertakings and Insurance Distributors”, the undersigned, although agreeing on the importance of supporting “cross-sectorial consistency”, deem it opportune to point out that the provisions of several of the positions of Chapter 2, and in particular guideline 13, go beyond what is required by Article 25 (1)(6) of the IDD. To this regard, we are aware of the possibility that the delegated acts may go beyond the IDD, but in the specific case no tangible reasons are found to extend provisions that go beyond acquisition of information on the products and on the relevant target markets to the non-manufacturer distributors.</p> <p>Furthermore, it is believed that for the intermediaries bound to the manufacturer by relationships already integrated, e.g. tied agents, will be able to fulfill the requirements of the guidelines whith the backing of insurance undertaking. We request, for these cases, application of the principle of proportionality <i>“The product distribution arrangements need to be proportionate to the level of complexity and the risks related to the products as well as the nature, scale and complexity of the relevant business of the regulated entity”</i>.</p>	
Question 3		
Question 4		
Question 5	<p>We believe that point 2 has to be further expounded in order to better explain the concept of "substantiality" stated in point 9 of the Analysis. Moreover, what is stated in point 11 should be specified, even if concisely: “It should be highlighted that the presence of one of these activities cannot be considered as an unquestionable evidence of the qualification of the insurance intermediary as a manufacturer, but this conclusion should be based upon an overall analysis of the specific activity of the intermediary which should be carried out by the intermediary on a case-by-case basis for each product designed”.</p>	
Question 6		
Question 7	Yes, we agree.	
Question 8	The optimum frequency of reviewing the products should be consistent with the definition of the principle of proportionality. We propose to require at least 3 years for the more complex products (i.e. insurance-based investment products) and up to 5	

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	years at the most for the other products.	
Question 9	<p>With reference to the specific question, we wish to point out a potential indeterminateness of responsibility between insurance intermediaries and insurance undertaking with reference to point 3 of the Conflicts of Interest Policy - Draft Technical Advice, in which this Authority appears to address a form of sharing this document between two categories of subjects, which actually proves difficult to implement due to the presence of a plurality of distributors under one undertaking and, at the same time, due to the presence of multiple companies of reference for one intermediary.</p> <p>We also voice our perplexity regarding the real possibility for small intermediaries with small organisations to be able to show an autonomous policy for managing conflicts of interest that are adequate for the regulatory purposes.</p>	
Question 10		
Question 11	<p>With reference to point 4 of the section "Detrimental Impact" of the Draft Technical Advice, the types of incentives considered as having a high risk of causing a detrimental impact on the quality of service provided to the client were examined for the specific question.</p> <p>Criterion b), which requires supplementing the quantitative commercial criteria with appropriate qualitative criteria, appears restrictive in its literal formulation in so far as the quantitative component is usually predominant in assigning goals to the sales structures owing to the very nature of the activity. We propose to correct the term "predominantly" in the text of the rule, which in any case ensures the required goal in its formulation.</p> <p>Criterion c) appears to be indeterminate and hence discretionary in its assessment. The notions of "disproportionate" and "excessive" may also change in time, depending on the conditions the competitors apply on the market at that given time and on the intermediaries' remuneration expectations. We propose to eliminate this article as we consider it incorporated in the more general rules of fairness in client relations.</p> <p>Lastly, we propose to eliminate criterion f) because it is basically already included, although in more general terms, in criterion b).</p>	
Question 12		

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Question 13		
Question 14		
Question 15		
Question 16		
Question 17		
Question 18		
Question 19	<p>With regard to the criteria for assessing non-complex insurance-based investment products under point 1 of the Draft Technical Advice, we believe that the current formulation does not allow some products having objective characteristics of low risk for the client to be included in the definition of non-complex products.</p> <p>We refer to the revaluable insurance products (or those with profit-sharing) structured to include a guarantee of returning the capital, and in some cases a minimum return, so the investment risk is shouldered by the insurance undertaking, and not by the investor. Only a return exceeding this return of capital and the minimum return, if any, is indirectly exposed to market fluctuations in consideration of the fact that the benefits falling due or in case of redemption may be revalued based on the yield, certified and publicly available free of costs, according to an algorithm contractually established and easily comprehensible.</p> <p>We therefore think that there are no elements of complexity for these insurance-based investment products identifiable with revaluable insurance products as long as they are characterised by the guarantee of returning the capital, and that they are to be expressly removed from the category of complex products.</p> <p>For this reason we propose to explicitly consider them in the documents clarifying point a-i) of paragraph 3 of Article 30 of the Insurance Distribution Directive 2016/97 (IDD).</p> <p>These products, on the other hand, might meet the whole set of conditions listed in the documents implementing a-ii) of paragraph 3 of Article 30 of the IDD for some configurations.</p> <p>To this regard, the following considerations are made on the represented criteria in answer to the question asked in the consultation:</p> <ul style="list-style-type: none"> • Criterion a): In consideration of the circumstance that national life insurance 	

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regulations allow embedding derivatives as cover, we propose to make the regulatory provision that, on the other hand, appears to concern only exposure in derivatives with investment purposes, and not coverage purposes, more explicit. As a result, we suggest that the text of letter a) be reformulated to reflect the part inserted in italics with underscoring: « *a) the contract does not provide investment exposure (whether directly or via underlying investment) to a derivative having a purpose other than that of coverage, or of another security that gives the right to acquire or sell a transferable security or giving rise to a cash settlement determined by reference to transferable securities, currencies, interest rates or yields, commodities or other indices or measures* »;

- Criterion c): We request confirmation that all insurance-based investment products that do not give rise to a loss other than the invested premiums are excluded from this case in point.
- Criterion h): we propose that letter h) be eliminated as it appears to refer to the possibility of entering into a life insurance contract in favour of third parties and/or to change its designation in the course of the same contract. Indeed, we find that:
 - this right connotes all life insurance policies, even those not qualifiable as insurance-based investment products pursuant to the IDD, so it does not constitute a proprietary factor of these latter products, which leads one to consider greater client protection in terms of assessment of the adequacy/appropriateness as being necessary;
 - the existence of this clause has no relevance with regard to its services being or not being exposed, even only in part, to market fluctuations;

this clause cannot contain complex aspects as it is, apart from everything else, accessible and immediately transparent already in the disclosure documentation available to the client during the pre-contractual stage, and does not jeopardise the client's ability to take conscious decisions since specific expertise is unnecessary in order to comprehend this feature, and neither does it affect abilities to understand the structure of the product and the risk assumed along with it, also considering that any change in the beneficiary of the services does not constitute any change in the nature or structure of the same services due based on the product.

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Question 20		
Question 21		
Question 22		
Question 23		
Question 24		
	<p>With reference to the paragraph "Periodic communications to customers" (point 8), is requested to this Authority to provide clarification on the information requested accompanying the periodic note to the customer, which, in some cases shown below, seem not always relevant to specific insurance investment products.</p> <p>In particular:</p> <ul style="list-style-type: none"> • letter b): "transactions undertaken on behalf of the customer"; • letter f): "Information on the state of bonuses"; • letter j): "investment element", "significant changes" and "global trend since subscription"; • letter k): "Information on surrender"; • letter l): "Date of maturity" of insurance contracts that is a fixed date already reported in the contract and not subsequently modified. Specific information is still provided to the customers closer to the deadline in accordance with current regulations <p>We also think that it is appropriate for the periodic communications to customer should be drawn up and sent by the insurance undertakings, in line with national rules.</p>	
Question 25		
Question 26		