

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:	Financial Services Consumer Panel	
Disclosure of comments:	EIOPA will make all comments available on its website, except where respondents specifically request that their comments remain confidential. <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>	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: ⇒ <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. - 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 Financial Services Consumer Panel was established under the Financial Services and Markets Act 2000 by the Financial Services Authority to represent the interests of consumers. The Panel is independent of the FSA. The main function of the Panel is to provide advice to the	

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FSA, but it also looks at the impact on consumers of activities outside the FSA's remit. The Panel represents the interests of all groups of consumers.

This is the Financial Services Consumer Panel's response to EIOPA-CP-11/007, Report on good practices for disclosure and selling of variable annuities.

Overview

The Panel is pleased to support EIOPA's work on variable annuities and in particular, the good disclosure and selling practices set out in this recent report. We would like to know more about how the report could be developed into perhaps an industry standard or code and how this would be monitored/enforced in different Member States.

Variable annuities are products that can meet specific consumer needs in certain circumstances, although their inherent complexity and risk profile mean that while consumers may be attracted by the 'downside guarantee', other product features may not be so clearly understood. We agree with the recommendation in the report that variable annuities should be sold on an advised basis only. It is important however that advisers have the necessary expertise, professional qualifications and up-to-date knowledge to give informed advice. We are conscious that consumers incur a cost in obtaining such advice, but the financial risk arising from buying without expert advice is potentially much greater.

We have set out below comments on the two key areas covered by the report. We are not in a position to respond to most of the specific questions contained within the consultation paper however.

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Q1.

We support the development and use of key features/key facts documents as an aid to communication of the most important features of financial products, alongside information about firms and legal/regulatory issues. They help to focus the potential purchaser's attention on the most important factors that he or she should take into account in reaching a decision. Given the level of cross-border sales of variable annuities it is important that there is absolute clarity about the identity of the underwriter and the mechanisms in place for and any limits on redress and compensation in the event that things go wrong. The key facts/key features documents and any promotional material should also set out clearly the downside risks of variable annuities as well as other product features. Particular care will also have to be taken to ensure that the often complex charging structures and ultimate costs are transparent.

For complex products such as variable annuities however we agree that the principal disclosure regime could be enhanced by the use of tools such as frequently asked questions and scenarios. Care would have to be taken to ensure that consumers were not overwhelmed with information that could result in them not reading the key features document at all.

There is also a need for consistency in the way in which information is made available. While we agree that there should be some flexibility in the way in which non-mandatory disclosure is carried out, if the terminology or approach used in different Member States – or even by different firms – is inconsistent, this could hinder rather than enhance consumers' ability to compare products.

The term "guaranteed" appears frequently in relation to variable annuities and it is a term that will make variable annuity products appealing to many consumers. Unfortunately the simple, everyday language meaning of "guaranteed" does not always seem to apply in financial services. We would like the use of the term "guaranteed" banned where the particular feature of the product is not in fact guaranteed in the way that consumers would understand it. If that cannot

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	be done, it should be made absolutely clear that any limitation or contingency on what is being offered changes a guarantee into an aim or intention.	
Q2.		
Q3.		
Q4.		
Q5.		
Q6.		
Q7.		
Q8.		
Q9.	The nature of variable annuities is such that the products are not suitable for mass marketing. This is particularly important at a time when many consumers might be attracted to an investment that has some form of underlying guarantee of income. Firms should take steps to ensure that the potential target market for variable annuities is identified carefully before the products are promoted and, as we have said, that important information around the identity of the underwriter and degree of downside risk are clearly articulated. The good selling practices identified within the report support the view that variable annuities should be sold only with the benefit of advice and we agree. The complex nature of the product and key lifestyle significance are such that the comprehensive fact-find (identification of customer needs and personal financial circumstances) and detailed product description and outcome scenarios suggest that expert advice should be a pre-requisite. For advice to be of value however it must be provided by an individual with the necessary level of professional qualifications, independently assessed knowledge and expertise. Sales staff or advisers without expert knowledge of these products and the environmental issues that can have an impact on	

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	their performance would be unlikely to understand the product themselves, and would not be in a position to provide the necessary information and advice to the client. An appropriate benchmark of qualifications and experience might be the international standard for financial planning ISO 22222, although only where this has been awarded by an independent third party assessor. As regards explaining the underlying mechanics of a variable annuity to the consumer, we are not persuaded that this would be necessary. The key issue for the consumer is the risk arising from the structure of the product or the way in which it works, rather than the mechanics of the product in itself. The use of scenarios would be helpful in communicating the impact of structural or external factors on the performance of the product.	
Q10.		
Q11.		
Q12.		
Q13.		
Q14.		
Q15.	We were pleased to see examples of due diligence being included in the report and we strongly support the good practice that has been identified. It is particularly important that post sales reviews focus on market demographics and factors such as sales and complaints data, so that alignment with the product provider's target market can be assessed. Due diligence should also include continuing communication with the client beyond mandatory post-sales disclosure information, as an aid to root cause analysis in the event of significant levels of complaints, cancellation or contract lapses.	

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