**Consultation on framework to address value for money risk in the European unit-linked market - 13 Apr 2021 - 16 Jul 2021**

**1 Do you agree with the definition of value for money presented in paragraph 1.7?**

The definition of value for money is a key element of the approach studied by EIOPA. While it responds to legitimate aspirations that everyone can share, given that it should have legal implications and effects, the question of a good definition is an essential condition for founding the approach.
In this case, the concept of value for money is very closely linked to the nature of the products or services sold. In this case, insurance contracts have very specific characteristics:
- The question concerns savings products where, to remain with the essential parameters determining an asset allocation, the insured seeks to transfer the value of his savings over time with an expectation of return, a tolerance of risk and a need for liquidity of varying degrees.
- In part, but generally in a minor proportion or as an accessory for most of the products in question, there is a biometric coverage dimension that is relatively easy to objectify, in that it consists of protecting the insured against a hazard that is assumed to be known and predictable at the level of the insured mutual.
- The consultation rightly emphasises the service dimension provided by the advice surrounding the underwriting. From a more general point of view beyond the field of insurance, this dimension seems to us to be neither taken into account nor specifically financed in the purchase of most goods and services.
- The consultation rightly highlights the cost of guarantees, which is often unknown and misunderstood by the final consumer.
In view of these specificities, although the notion of ""proportionate"" is spontaneously welcomed, in practice it may prove to be of little use:
- In the case of more or less industrialised administrative management services which have no reason to be rare on the market, the competition between operators should naturally lead to this proportionate character; but even in this field, economies of scale can be significant and can lead, depending on the size of the players and the maturity of their development, to very different cost structures, without the fees levied on the insured having any economic reason to be significantly affected.
- Asset management is also subject to these scale effects, which are particularly evident.
- The consultation rightly highlights the cost of guarantees, which is often unknown and misunderstood by the final consumer. Moreover, like any service, the expectation of a very high-quality service can be highly valued; however, this valuation will be based, unlike most goods and services whose level of quality and content are precisely predictable, on an expectation of performance in the broad sense (return on investment, volatility, relative performance compared to the market and so on) which offers far fewer guarantees of reproducibility. This random aspect is inseparable from the level of price that the client may agree to pay for asset management services (because if performance were certain, arbitrage would be very easy between the different offers). This immaterial nature of the valuation of the expected service limits very strongly, without however eliminating it, the relevance of the notion of proportionality. It would therefore be important to assess it with a great deal of hindsight. We understand from the explanations provided by EIOPA that the approach would not lead to a binary

and mechanical evaluation of products in terms of their value for money. This seems of utmost relevance to us, especially as we have no certainty that the notion of proportionality is effective. In concrete and quantitative terms, an approach based on simple orders of magnitude would already constitute a reasonably ambitious basis.

**2 Do you share EIOPA's concerns about value for money in certain areas of the UL-market?**

It is certain that the diversity of investment vehicles (UCITS and other vehicles) and their marketing and management methods are inevitably accompanied by different costs and therefore fees, the combination of which can lead to very significant differences. Consideration of the total charges borne by a product may well justify EIOPA's concern about the acceptability of the product's value for money in certain existing market configurations. This point may be evident in some situations where out-of-market costs make it objective. It is very useful to help protect savers as much as possible from this type of situation, which can only damage confidence in financial service providers and subsequently alter their allocation decisions due to a bad past experience.

It is important to note that an investor may feel that he or she has not received value for money if the product in which he or she has invested underperforms without this putting into question the value of the product (in particular its financial management) given the irreducible randomness inherent to this activity.

Conversely, some products with fees that appear to be out of the market can deliver a very good performance ex post, even net of fees.

**3. Do you believe that more emphasis on value for money considerations as part of POG, in particular through product testing, will ultimately improve the value propositions in the unit-linked market?**

The randomness of performance is a fundamental characteristic to be taken into account when studying the value for money of a saving product. Therefore, the implementation of tests and projections based on assumptions that are consistent with existing frameworks and that capture randomness may be a way for the manufacturer to assess more objectively the viability of the product.

Existing provisions under the IDD and, where appropriate, PRIIPs should provide a coherent framework for dealing with this issue effectively. A dedicated analysis of this issue by the NCAs called upon to supervise the application of these regulations would contribute to this objective.

**4 Based on the framework presented below, do you believe there may be principles you feel are missing? Please explain.**

While the principles can only be endorsed, the main obstacle to the approach undertaken by EIOPA is their translation and implementation. In this respect, additional principles should dictate the implementation approach itself, the feasibility of which does not seem to be established. In particular:

- Systematically and accurately match the regulatory solutions envisaged with the reality of the products and markets, even if this means differentiating the treatment according to the products

- Adopt a realistic approach, aware that it is not credible to assign costs when the granularity is too fine (breakdown by type of cost, by guarantee, etc.)

- Take into account the random and prospective nature of the quality-price ratio of a savings product to be studied, which only marginally allows for a clear-cut assessment

**5 What additional measures could EIOPA facilitate to advance value for money in unit-linked and hybrid products?**

EIOPA's initiative is very interesting and fully justified. It is important to find the most appropriate means of achieving the desired objective. The difficulty of translating the principles set out into operational approaches is all the greater given the wide diversity of products across Europe and the wide diversity of issues involved. The NCAs can be a useful channel for initiating and expanding market discussions in each market, extending and interacting with the work carried out by EIOPA.

**6 Do you agree that costs and charges need to be due?**

We agree with this principle but stress that, like the definition of value for money, its concrete translation and evaluation according to objective criteria remains hypothetical. This requires in-depth work, taking into account the reality of the different markets and products.

In economic terms, we draw attention to the fact that the margin is not unequivocally correlated with costs, since it is made up of the difference between the price, which depends on market demand, and the costs, which depend on the arrangements put in place by the producer.

**7 Do you agree that for evaluation purposes, costs and charges should be assigned to specific benefits and services?**

Our experience as actuaries shows that product profitability studies are difficult to carry out precisely because of the difficulties in allocating costs and, to a lesser extent, revenues, and that their results are all the more open to interpretation as they focus on a narrow field of activity or cost sector.

Even at the most global level, that of the insurance company itself, the vision of costs is not necessarily relevant at a given moment but must take into account the deployment over time; we are thinking in particular of the launch of a new product, which requires design work, training, development of management systems, marketing and advisory tools, as well as the publishing chain. A cashflows view shows that the costs incurred for a product launch are out of all proportion to the charges invoiced and that the assessment of profitability is made on a forward-looking basis, which is therefore difficult to objectify, and which should also take into account the risk that success will not be achieved and that the costs will not be amortised. In concrete terms, this same situation can also be analysed from a different point of view insofar as a company established with an existing portfolio will have to share all or part of the launch costs on the existing portfolio, which leads to a different assessment of the costs incurred for the different products in the range.

These difficulties are even more acute when granularity is increased: for example, does the existence of several guarantees within a product make it easier to sell or does it require an additional effort of explanation? How to allocate the cost of marketing on an objective basis between different products, bearing in mind, for example, that certain components of intermediaries' commission take into account the overall activity, particularly the qualitative aspects of this activity, which must, as required by the IDD, constitute a significant part of the remuneration.

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For insurance products, the cost of certain guarantees is highly volatile depending on the economic and financial situation. In stable periods with high interest rates, this cost may only constitute a small part of the fees collected, but in periods of tension and negative interest rates it may exceed the fees collected. Finally, within a product, some elements may be technically linked in an inseparable way, which may render an analytical approach irrelevant. We may also have correlation and/or mutualisation effects between risks and guarantees that may influence the final cost for the insurer, particularly with regard to the capital cost. For example, legally, some products are similar to savings products because they combine a death benefit with a life benefit. Analysing those guarantees separately would not make much sense in terms of assessing the benefit to the customer and their combination has a very positive effect in prudential terms, which a separate analysis would contradict.

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**8 Do you agree that the costs which cannot be directly linked to a specific product component, should be assigned to the dominant product feature? If not, do you have an alternative proposal?**

We call for great caution in this matter. We are aware of the inherent limitations of cost accounting approaches in their attempt to allocate costs and the inevitable degree of arbitrariness.

While this arbitrariness is acceptable in the context of an approach adopted by the insurance company to meet its own needs and without having to justify it, or in a limited context, to external authorities or auditors, this arbitrariness is generally not compatible with a regulatory approach that is liable to sanctions and civil or even criminal liability.

In this case, a top-down approach involving high-level allocation rules to deal with these cost allocation problems is bound to run into contradictions or unintended effects on the ground, which may lead to serious difficulties.

It seems more reasonable to ensure that, at least at an aggregate level, a value for money approach can be implemented with credible results before breaking it down to more detailed levels.

**9 Do you agree that active investment management involves additional costs and benefits?**

Yes, active asset management is a very important part of the financial offer, particularly sensitive for clients in the equity market. The development of passive management offers, which has taken on a new dimension with the appearance of ETFs, helps to clarify the dividing lines between the different offers and is an interesting development that could contribute more generally to a better awareness of the advantages and disadvantages of the different types of asset management, but also of the expectations and demands that the consumer should have with regard to each of them. In this case, active management aims to outperform the relevant indices, thus representing the benefit of a higher expected return, in return for greater analysis and management resources, which also generate higher costs.

**10 Do you agree that each product feature should deliver Value for Money as well as for the product as a whole?**

The notion of feature needs to be clarified.

This approach seems too simple to us. On the one hand, it is based on the idea that a value for money can be established for each component of the product, which does not seem to us to be a certainty as indicated above. We note that the notion of component is a concept that needs to be clarified (PRIIPs has introduced the notion of option and MOP); as such, is the advisory service a component of the product?

On the other hand, although this approach should apply in many cases, one cannot exclude situations where it would not apply. For example, certain ancillary benefits (such as a floor benefit in the event of death) may be financed by a collective without benefiting everyone equally, or even without benefiting certain categories at all.

The approaches mentioned run the risk of leading the work into a dead-end complexity insofar as it does not seem realistic to achieve a personalised tariff and the companies themselves refrain from this approach which would impose economically unviable transaction costs. Furthermore, it is the responsibility of the insurer to manage a mutual scheme with costs/benefits that may fluctuate from one individual to another, or even for the same individual over the period of cover.

**11 Do you agree that value for money is dependent on the target market's characteristics, needs, and objectives?**

In theory, the value for money of a product may indeed be sensitive to the characteristics, needs and objectives of a given target market. For example, depending on the profile of the investor, the need for and value of advice may be significantly different. On another level, some investors may be sensitive to certain guarantees while others would have preferred to invest in a similar asset but prefer to avoid the cost of these guarantees.

These are elements, notably the appreciation of risk exposure, which add an additional psychological dimension to the full understanding of the concept of value for money and show the complexity of the task.

**12 Do you agree that active and passive investment management have different target markets?**

This may be the case but not necessarily. Active management may appear riskier than passive management in that it may deviate from the benchmark (assuming that the benchmark averages the performance of the underlying assets and reduces overall volatility). However, this is not always the case, especially for certain categories of diversified funds which will adopt a more conservative bias of withdrawing from equity markets in case of volatility and will be more suitable for more risk-averse investors.

Furthermore, within multi-fund life insurance policies, it is generally recommended to observe investment diversification rules. The same fund, whether active or passive, can therefore be found in different allocations, each adapted to a different investor profile.

The risks of passive ETF management are also highlighted: the counterparty risk in ETFs and in particular synthetic ETFs and ETFs that use a high percentage of derivatives, as well as the liquidity risk due to the growing influence of passive management versus active management.

**13 Do you agree that distribution costs which are charged to the consumer as a percentage of the premium paid or the performance of the units can create a risk of being poor value for money?**

This question needs to be clarified. These are two very different ways of charging for distribution. The economic reality behind the charging as a percentage of the premium is diverse and therefore needs to be considered carefully. The front-end load may or may not depend on the nature of the underlying assets in which the premium is invested. In the latter case, we do not identify any particular risk.

It should be noted that the remuneration structures for acquisition cannot accurately reflect the service provided and that they operate an inevitable mutualisation, particularly between very small transactions and therefore without any significant consumer stakes but with very high marketing costs in relation to the commissions received, very large transactions requiring asset know-how and intermediate transactions, where the individual stakes may be high in relation to the overall assets of the policyholders involved. This pooling encourages universal access to this type of savings product.

Furthermore, it is also noteworthy that these distribution costs borne by the insurer and/or its intermediaries are generally also financed in part by the ongoing charges.

As far as charges based on the performance of the funds are concerned, to our knowledge, on the French market and with some exceptions, this is exclusively a practice concerning the underlying funds of the insurance contract. Beyond the logic of this type of remuneration, which in principle has the merit of creating an alignment of interest between the asset manager and the investor, it should be noted on the one hand that, among the numerous existing performance remuneration structures, some are asymmetrical (they interest the asset manager in outperformance in a given year but do not sanction underperformance in other years) which may reduce the alignment of interest to zero, or even create a conflict of interest with risk management diverging from the interest of investors. On the other hand, outperformance fees are more or less difficult to understand and may, in some cases, make the remuneration structure more difficult to understand and to perceive their impact. However, we question the relevance of targeting this type of fee in the distribution context as it is very generally associated with asset management and not with distribution.

**14 Do you agree on the assumptions to be made when assessing the reasonableness of the expected break-even point and of the expected returns?**

It is not clear what assumptions the question refers to.

**15 Views on other criteria / ways to assess reasonableness are sought**

The question of the commitment required from the policyholder (commitment to pay premiums over a more or less long period, penalties in the event of early withdrawal, etc.) is also an important element which influences the value for money ratio (the loss of liquidity deteriorates this value) and reinforces the importance of the issue at stake (if the saver does not find the product to his satisfaction), he does not have the possibility of changing it, or he may be penalised if he does so.

**16 Do you agree that manufacturers have a duty to review costs and charges, performance and the services offered on a regular basis?**

Yes, it is legitimate to review costs and loads regularly. These products are highly dependent on the financial and more general economic context. The interest for the client may be affected positively or negatively and the same is true for the insurer. This analysis should also take into account the improvements made to the product over time (e.g. in terms of the diversity of investment vehicles offered, the availability of consultation or advisory tools).

It should be noted, however, that contractual and legal provisions provide a potentially strict framework for the changes that insurers may make to contracts.

**17 Do you agree that policyholders should expect returns that are in line with market returns over the long run?**

Yes, subject to clarification of what is meant by "" in line with"". Insurers and asset managers who make their products available play an intermediation role and provide a number of services not only related to savings management but also to the proper consideration of the asset and tax environment.

On the other hand, this statement is more obvious at the level of the investment vehicles themselves (again, subject to intermediation costs) and relates to the point of the performance review mentioned in questions Q16 and Q18.

**18 Do you agree that actively managed underlying funds should be reviewed in relation to their performance against that of their related benchmarks?**

The question of the added value of active management is an important one.It is not abnormal that a significant proportion of actively managed funds underperform the index, which can be explained or justified by various reasons (including legal ones). The question of over what period of time to assess the quality of management and the efficiency of a manager is not an obvious one either, given the random nature of performance. In any case, a regular review is essential and can be useful to the client.

**19 Do you agree that mass marketed UL products should provide a limited number of options?**

This depends both on what is meant by options and on the way these products are sold. A simple multi-support insurance contract with a wide range of units of account in the form of UCITS is no more complex than a securities account, which is not itself a complex product. It is even safer to handle than a securities account insofar as the risk carried by the UCITS is more diversified and controlled than that of isolated securities. In addition, insurance contracts in France benefit from mandatory advice, which allows the client to be accompanied in the choice of his investment supports, services and guarantees.

Furthermore, a single contract can include a wide variety of products and also offer several management methods. This may range from the policyholder's free choice of funds to the provision of standardised, diversified and balanced allocations, the composition of which the insurer undertakes to maintain over time, or it may consist of allocations actively managed by the insurer using the funds proposed in the contract. The advantage of having a large investment universe within the contract is therefore obvious and such a product is among the simplest on the market.

**20 Do you see alternative measures to mitigate risks associated with a high number of options?**

The multi-supports life insurance contract (MOP) on the French market offers savers a wide variety of investment vehicles, covering medium to long-term time horizons, with very low to very high-risk tolerances, and aimed at both very inexperienced savers and others with a solid financial education. Many contracts offer within the investment framework of the multisupports life insurance contract, investment facilities structured according to various modalities involving a highly variable degree of service and support within the same contract, each of which covers very specific target markets.

It is essential that, at the time of subscription, the advisor correctly identifies the target market to which the saver belongs in order to offer him the subscription modalities and combination of options best suited to his situation, needs and requirements. The IDD has clearly identified these issues and provided an appropriate framework to address them.

**21 Do you agree that UL products require a high degree of financial literacy for consumers to understand?**

Investment in unit-linked products is bound to become essential in a situation where returns on the general account are in long-term decline due to negative interest rates. These vehicles are also conducive to investment in the real economy insofar as they do not present the same prudential constraints for insurers as the general fund. It is important that the financial industry manages to distribute them in conditions adapted to a mass market without the prior requirement of a high degree of financial education. This does not only imply a good explanation of the underlying risks, but also the ability to provide a suitable investment framework with essential characteristics (liquidity, risk, return prospects net of fees) consistent with the needs and requirements of the policyholders concerned.

This ability to provide this framework seems to us to be progressing on the French market and contributes to increasing the added value of the life insurance contract as a service provided to choose the units of account and to adapt the allocation for an unsophisticated public.

**22 Do you agree that products with many different options carry additional conduct risks?**

Experience has shown that products without any options can present a very significant driving risk (zillmerised regular premium contracts with biometric guarantees). We cannot make a general law out of this statement. On the contrary, the multiplicity of options in the meaning of investment supports/vehicles is favourable to the implementation of an open architecture, facilitates the competition between managers by the policyholder, who will not have to undergo the fiscal disadvantages linked to the exit of the contract. Situations must therefore be assessed in concrete terms, taking into account all the determining factors, such as the remuneration protocols of intermediaries, the management and packaging of options, the overall structure of charges, etc.

**23 Do you agree with the variables to be taken into account to determine product groupings? Or do you believe more/less variables should be taken into account?**

We would be very interested in knowing the approach envisaged for building a valuation model. Knowledge of this approach would make an opinion on the proposed groupings more relevant.

As it stands, and subject to a more precise understanding of the approach, the question of grouping calls for the following remarks.

- The criterion of regular premiums is a very decisive criterion for the duration of the saver's commitment and the liquidity of the product subscribed to. We therefore feel that it should also be taken into account.

- The method of distribution of profit-sharing (annual incorporation into the policyholder's savings or final bonus, etc.)

- The structure of the charges is also an important and determining point. A large part of the French market, for example, has a relatively simple fee structure based on the fees of the contract (entry fees and management fees on the assets under management, which may differ between the general fund and the units of account) and the fees of the units of account.

**24 For each of the variables identified provide views on options which EIOPA should consider**

In the absence of further knowledge of the tool being developed, it is not possible to answer this question.

**25 Do you think there may be other criteria to be followed when grouping products?**

Please see our answer to question 23.

**26 Considerations on the model are sought**

We note that the evaluation tool would not have an enforceable scope. This approach seems reasonable in view of the great difficulty of objectifying the value for money of a product and the impossibility of drawing a clear dividing line between products with an acceptable value for money and those without.

The success of the approach seems to us to be closely linked to the ability of the proposed system to take proper account of the specific characteristics of each market and its products. Under these conditions, it is not certain that a single method, and a fortiori a single tool, is capable of fulfilling this task.

On the other hand, the results of EIOPA's work could usefully be used to provide input for supervisors and operators in the various EU markets with a view to extending the work and encouraging similar approaches in order to ensure a good match of the methodology with the operational specificities, which is a guarantee of the operational effectiveness of the approach.