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## **MEETING DOCUMENT**

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<b>From:</b>	General Secretariat of the Council
<b>To:</b>	Working Party on Financial Services and the Banking Union (Retail Investment) Financial Services Attachés
<b>Subject:</b>	Retail Investment Strategy - Commission services non-paper on the treatment of insurance-based investment products that include investment options under Value for Money rules

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# Commission services non-paper on the treatment of insurance-based investment products that include investment options under Value for Money rules

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## 1. Introduction

In the fourth political trilogue held on 21 October 2025, the European Parliament asked the Commission to provide its assessment of how insurance-based investment products (IBIPs), that are subject to the Insurance Distribution Directive (IDD) rules but comprise investment options developed by product manufacturers subject to the Directive on markets in financial instruments (MiFID), Undertaking for Collective Investment in Transferable Securities (UCITS) Directive or Alternative Investment Fund Managers Directive (AIFMD) rules, would be treated under the new value for money rules.

To ensure that the value for money rules are kept as simple as possible, the Commission has based its simplification proposals on already existing practices in the investment and insurance sectors. Against this backdrop, it has suggested that:

- the value for money rules for investment funds and structured products would be based on peer grouping by firms, that is already common practice, in accordance with a methodology to be laid down in a delegated act. This would be an ex-ante assessment comparing the value for money of a product against a group of similar peer products chosen by the manufacturers/distributors on the basis of relevant criteria which ensure accuracy and reliability of peer group comparisons and prevent comparison to underperforming products only. Depending on the outcome of the assessment, they may be required to take action to ensure that the product provides value for money<sup>1</sup>. The assessment may be challenged by the relevant national competent authority (NCA) if they have concerns about the value for money assessment, including about the other products against which the firm's product has been assessed.
- the value for money rules for insurance-based investment products (IBIPs) would build on the EU supervisory benchmarks which are being developed by EIOPA. Insurance companies would be required to assess the value for money proposition of their products (without the need to compare to peer products) and potentially take action to ensure the product provides value for money. The assessments could be challenged by NCAs if they have doubts whether a product can be considered to offer value for money. The EU supervisory benchmarks would be a tool which would provide a reference point for NCAs to engage in a supervisory dialogue with firms and identify any outliers.

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<sup>1</sup> Peer grouping would be based on publicly available data: the approach as set out in this legislative package is designed so that firms pay attention to ensuring that their products offer value for money, under the control of supervisors. This approach would not incentivise manufacturers to collude, as prohibited by competition rules.

## **2. Characteristics of unit-linked insurance products**

Unit-linked insurance products are one type of insurance-based investment product (others are profit-participation). As insurance contracts, unit linked products have two key attributes:

- the biometric coverage aspect (“the insurance wrapper”): the product is a life insurance contract where the insurer typically undertakes to pay policy holders or beneficiaries a defined insurance benefit upon death; and
- the investment aspect, where, as part of the contract, the insurer promises to pay, upon maturity or surrender, an amount equal to the value of an underlying investment asset, such as shares in an investment fund.

In the European market, unit-linked insurance products (either pure unit-linked or hybrid products)<sup>2</sup> are a common type of IBIP.

When concluding the contract for a unit-linked insurance product, a customer normally has a choice between either different investment options or different (pre-defined) investment strategies/model portfolios. In the case of so-called multi-option products (MOPs), there is a particularly wide selection of investment options, that can range into the hundreds within a single contract. The underlying investment assets may be generally traded investment funds (e.g. UCITS, ELTIFS), or special internal investment instruments, such as internal funds, which are only manufactured for the purposes of incorporation into an IBIP. The exact structure and commercial practices vary considerably between Member States.

Once the customer has decided which investment option/strategy they want to invest in and signed the contract, the insurer does not invest in this investment option on behalf of the customer. Rather, the insurer only promises to pay to the customer, at maturity or surrender, an amount equal to the value of the investment at that time. Thus, the customer does not become an owner of any potential underlying financial instruments (e.g. fund shares), but only has a contract with the insurer/a claim against the insurer. The insurer will however generally invest the money on its own account into this investment option. As an institutional investor, the insurer will typically be able to invest with different, generally better conditions.

The conditions and costs for the investment options are set out in the insurance contract and in the insurance company's general terms and conditions.

## **3. Value for money assessments for unit-linked insurance products**

Given that IBIPs consist of two components, theoretically there are two different approaches that might be followed:

- An approach whereby the supervisory benchmark applies to the whole product (taking into consideration that what matters to the retail investor is that the whole product provides value for money), or;
- An approach whereby the supervisory benchmark applies only to the “insurance wrapper” (in case the value for money of the underlying investment has already been assessed on the basis of peer grouping). This approach may however only be applicable to cases where the exposure to the underlying assets through the IBIP is economically

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<sup>2</sup> In the case of so-called hybrid products, only a certain percentage of the premium is affected to a unit-linked compartment, while the rest goes into traditional life insurance.

equivalent to a direct investment in those assets. For all other cases, the value for money approach/supervisory benchmarks may have to cover the whole IBIP, including the investment option.

**a) The approach based on supervisory benchmarks of the whole IBIP**

Under the Commission's proposed approach, unit-linked products would, as insurance-based investment products, be fully covered by supervisory benchmarks developed by EIOPA. Thus, the cost and the performance of the whole product as well as the additional benefits would be considered by the insurer in order to assess the value for money of the product.

The advantage of this approach is that it ensures value for money of the whole product, which is what matters to the customer. It also has the advantage that this approach can be used for all IBIPs given that the data for the assessment of the full product is in all cases available through the PRIIPS KID and Solvency II reporting, so that EIOPA would not need to develop different sets of benchmarks. It also has the advantage that there is no risk that there would be some gaps or overlaps in the assessment.

The benchmarking approach already developed by EIOPA is based on this approach. It thus considers the value for money of the whole product and does not distinguish the value for money assessment of the insurance wrapper from the value for money assessment of the investment option.

A concern has been raised that supervisory benchmarks for the whole IBIP (also covering the investment aspect) might entail a duplication of assessments for the underlying assets, becoming subject to both peer grouping and supervisory benchmarks (please see the assessment of this argument in point b) below). Moreover, EIOPA's methodology on supervisory benchmarks may currently not be granular enough to capture the wide variety of investment exposures and risk profiles. The currently deployed methodology considers only three types of underlying exposures (equity, "asset allocation", and "Rest") but does not, for instance, distinguish between active and passive funds, different underlying asset selection strategies or target assets, bond funds, private equity, real estate funds, or the characteristics of structured products. If it is not granular enough, this may lead to inaccurate VfM comparisons. This issue of granularity has been addressed in the legal drafting on the VfM proposed by the Commission to the co-legislators<sup>3</sup> and could be further specified, if necessary.

It could also lead to insurance undertakings putting pressure on product manufacturers to lower the costs of the investment options, or choosing only lower cost options for their IBIPs, in order to preserve profitable margins on the insurance wrapper.

**b) The approach of supervisory benchmarks which apply only for the "insurance wrapper"**

An alternative to the approach suggested by the Commission services would be that supervisory benchmarks should only cover the insurance part of the product, i.e. the insurance "wrapper", but not the investment options, given that the value for money of the underlying investment

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<sup>3</sup> Article 25(7), second subparagraph, IDD: "The Union supervisory benchmarks shall be developed on the basis of product clusters containing a significant number of insurance-based investment products that **present similar characteristics, including, where relevant, similar levels of performance, risk, guarantee, strategy, objectives, recommended holding periods, sustainability features, premium frequency, biometric risk coverage or other characteristics.**"

funds supervised under UCITSD and AIFMD, and structured products manufactured by investment firms and supervised under MIFID would have already been assessed (through peer grouping). This approach would address concerns that the whole product approach would result in underlying assets becoming subject to both peer grouping and supervisory benchmarks. A duplication of assessments should be avoided from the point of view of simplification. It would also strengthen the scrutiny applied to the additional layer of costs and services embedded within the insurer's wrapper and ensure that each actor in the value chain should make efforts to achieve better outcomes. A VfM analysis conducted at the level of the fund or structured products would, by contrast, compare investment funds and structured products with relevant peer groups and could be properly supervised by the competent authorities.

This approach focusing on supervisory benchmarks for the insurance wrapper may however not be applicable in cases where the exposure and costs linked to the underlying assets via the IBIP is economically different from a direct investment in such underlying assets. This is because in cases in which the exposure to the underlying asset is economically different from a direct investment, the value for money assessment would also need to be different. The situation in this respect considerably diverges in different national markets. Furthermore, in some markets, the underlying investment will often not be economically equivalent to a direct investment because the exact conditions of the unit-linked products set out in the insurance contract differ from the conditions for investment products that retail investors purchase directly: the recommended holding period is typically much longer for a life insurance product as compared to a retail investment fund; entry and exit costs will often be different, in particular exit costs in some scenarios may reflect high fees for an early surrender of the insurance policy; and there may also be differences in ongoing (management) fees.

Nevertheless, in the cases where the exposure to the underlying assets through the IBIP is economically equivalent to a direct investment in those assets, it could be possible to run such separate VfM assessments.

There are however some disadvantages to such an approach:

First, since this approach would only work for a limited set of IBIPs, it would mean that two sets of supervisory benchmarks would need to be developed: one set of supervisory benchmarks covering the whole IBIP for those cases (where the underlying investment is not economically identical), and one set of supervisory benchmarks covering the investment wrapper only for those cases in which the underlying product is economically identical to the underlying investment option. These benchmarks would require two different methodologies. Moreover, the situation would become even more complicated for hybrid products, where only a certain percentage of the premium is affected to a unit-linked compartment while the rest goes into traditional life insurance. For those cases, an approach distinguishing between the "insurance wrapper" and the investment element would need to cater for differences in the size/the percentage of the investment in the underlying asset.

Furthermore, it is unclear how the supervisory benchmarks for the insurance wrapper could be established given that in many cases, the data, in particular the cost data, is not separately provided<sup>4</sup>. Unless additional data reporting would be required, the supervisory benchmarks

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<sup>4</sup> The data is, under current rules, only available in cases where the manufacturer decides to provide a generic KID with a specific information document (SID) in which they indicate the specific cost of the investment option. However, it is not available, for IBIPs which include only one investment or a limited set of options. In case of multi-option products, the data is available only in specific cases.

could only be based on the data from a limited set of products (from very few Member States) but would not take data from other (similar) IBIPs into consideration. The supervisory benchmarks may thus be less reliable.

Moreover, it may not be possible in all cases to clearly allocate the cost to either the insurance wrapper or the underlying investment option and to avoid gaps or overlaps: for instance, while there may be costs which belong clearly to the insurance wrapper (e.g. the cost required to ensure the insurance guarantee/insurance cover) and other costs may clearly belong to the underlying investment (e.g. the management cost of the underlying fund), there may also be costs that could belong to both elements, e.g. possible exit costs. Furthermore, it would not be clear whether the fact that the insurer, as institutional investor, often gets better conditions as a retail investor would be considered. There may be differences in this regard between investment options (e.g. the amount of payments may depend on the specific investment option) and the impact of such differences can be considerable. It could thus be argued that they would need to be considered in the value for money assessment, but this could not necessarily be guaranteed under this second approach.

Finally, a segmented benchmarking approach could in effect hinder transparency, making it very difficult for supervisors to ascertain the accuracy of firms' assessments and whether all costs (including those linked to inducement payments or guarantees at insurance wrapper level, which would not be reflected in the cost structure of the funds) have been fully reflected.

For these reasons, the Commission services are of the opinion that a holistic assessment covering the entire IBIP structure, including both investment and insurance elements, may be more appropriate to properly evaluate value for money.

**c) Potential disadvantage for inherently more expensive underlying investment strategies (including f. ex. private equity products)**

The asset management sector has expressed concerns that, if supervisory benchmarks would look at the whole product (including the investment aspect), it would result in insurers narrowing the range of available investment options to those that are particularly low-cost, in order to protect their own cost margins. They are thus concerned that insurers may include fewer of the more expensive products in their IBIPs. They also fear that this could lead to the exclusion of products with structurally higher costs, such as private equity funds.

A scenario where investors have a more limited choice of investment options because products that are structurally more costly would be excluded from IBIPs should be avoided. This could be an unintended consequence if the developed methodology were not sufficiently granular to account for a variety of possible underlying investment strategies, including strategies focused on certain types of target assets (f. ex. small-caps or SMEs, private equity, growth assets, infrastructure), sectors (f. ex. defence), or products that may be more expensive to manage. It thus needs to be ensured that EIOPA's benchmarking methodology, leveraging on existing data, is sufficiently granular to ensure that, in practice, such situations do not arise. Work towards this direction is already envisaged in the legal drafting that the Commission has proposed<sup>5</sup> which could be further developed, if deemed necessary. Benchmarks should be developed based on product clusters of similar products, taking into account that different

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<sup>5</sup> See previous footnote.

investment strategies and options provide different value to consumers. To ensure a wider set of options for investors is available, IBIPs with investment options which are structurally more expensive should thus be subject to different supervisory benchmarks than IBIPs with structurally cheaper investment options. Thus, separate benchmarks should apply for products with different investment strategies, f. ex. products focused on specific target assets or sectors. Moreover, it is important to acknowledge that under the supervisory benchmark approach, higher costs and charges can always be justified, if the product provides specific performance and/or additional benefits to the target market.

#### **4. Conclusion**

For the reasons outlined above, it would seem preferable to follow an approach whereby supervisory benchmarks would apply to unit-linked products as a whole, as it is the whole cost of the product to the end-customer that matters with respect to value for money. This approach will be more straightforward to apply and could be implemented based on available data and is therefore in line with the simplification objective.

It is thus important that insurance products with investment options subject to the MiFID, UCITS or AIFMD frameworks are fully covered by the supervisory benchmarks. The assessment by the manufacturer of the investment product may however still provide the insurance company with useful information to help with its own assessment of the (whole) unit-linked product. To ensure that investors are provided with a wide set of investment options, it is also important to ensure that EIOPA's benchmarking methodology is sufficiently granular to ensure that IBIPs will continue to include a variety of underlying products with different investment strategies, including where such strategies may be inherently more expensive. Benchmarks should be developed based on product clusters of similar products, taking into account that different investment options provide different value to consumers and leveraging on existing data.