German Insurance Association

COMMENT

Comment

of the German Insurance Association (GDV)
ID-number 6437280268-55

on the EIOPA Consultation 'Methodology for Value for Money Benchmarks'

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We are convinced that the vast majority of German IBIPs offer good value for money. We understand that as in any market there are outliers that require closer scrutiny by the NCAs. We therefore support EIOPA's work if it is aimed at helping NCAs to identify such products more easily.

EIOPA's work integrated in the current RIS proposal could lead to price regulation

Nevertheless, we are very concerned about the timing of EIOPA's consultation in light of the ongoing political discussion in the context of the Retail Investment Strategy (RIS). The Commission's proposal does not see Value for Money as a supervisory tool. Rather the Commission's draft would require product manufacturers to compare their products with the benchmarks when designing them. Deviations would only be possible if they could be justified according to criteria set out in a delegated act by the European Commission leading to a de facto form of price control.

The co-legislators are still discussing the possibility of introducing EU benchmarks as part of the RIS proposals and many policymakers in both the European Parliament and the Council have strong concerns about this approach. Against this background, EIOPA should not rush its work but wait to develop a Value for Money system that will fit into the future regulatory context once it becomes clear.

Benchmarks are an effective tool for supervisory purposes only

We welcome the clarification that EIOPA's proposal is intended as a supervisory tool and is designed as such. It is problematic to transfer the concept to RIS (in its current form) as RIS introduces far-reaching requirements in the POG process that could lead to price control. We agree with EIOPA that IBIP manufacturers are best placed to determine whether their products offer value and that benchmarks are only one of the many elements to be taken into account. We also strongly support the clarification that benchmarks are not a disclosure tool for consumers, as they can only be assessed by experts. We would also welcome clarification that benchmarks are also not suitable as a product comparison tool for distributors.

Benchmarks should therefore be used as one of many supervisory tools in order to help national competent authorities to identify products easier that may offer little or no value for money. Benchmarks should be applied wisely and only as part of a holistic view of the product. This is the approach taken by the supervisor BaFin in Germany.

Target group characteristics and not benchmarks should be integrated in the POG process

EIOPA assumes that the POG requirements oblige providers to compare the costs of their products with those of comparable competitor products (point 8.1 of the consultation paper). In our view, POG does not require a comparison with competitors' products. In the context of POG, it must be checked and ensured that products are suitable for the purpose intended by the respective target market. POG is not intended to ensure that products are priced favourably in relation to comparable offers from competitors. Within the aforementioned limits set by POG, pricing must continue to be subject to competition. Insofar as EIOPA develops benchmarks, we therefore see its focus on supporting risk-based supervision by the NCAs.

The same approach in product design and supervision is not meaningful and completely disregards consumer's perspective: the focus in the POG process must be on customer needs and not on quantiles of indicators. Instead, the characteristics, demands and needs of the target market should play a role in the POG assessment of Value for Money by the manufacturers. Since IBIPs are very heterogeneous, these characteristics should be defined at national level.

ESAP data is sufficient for a market-wide assessment at European level

In EIOPAs previous publication[1] EIOPA differentiates between market wide assessment (Layer I) through which NCAs would identify products requiring higher scrutiny. This assessment is based on the Solvency II reporting and on PRIIPs data that is available to supervisors and soon will be provided through the ESAP. Only products that require enhanced supervision are closely looked at (Layer II) through additional indicators.

However, in the current consultation EIOPA applies both Layers I and Layer II indicators on the entire market at European level. This is not a risk-based supervisory approach but puts the entire market under suspicion.

Furthermore, it is also a very burdensome approach: Due to very heterogeneous products across EU granular market-wide reporting would impose unnecessary reporting burdens on insurers. EIOPA mentions that "The relevance of each indicator per cluster will be further defined by EIOPA once the clusters are defined and the data on indicators is received to calculate the benchmarks". This means that there will be a lot of data points reported by companies which will not be used as EIOPA and NCAs will pick only a small subset of the data for their assessment.

1 Methodology to assess value for money in the unit-linked market, EIOPA-BOS-22/482, 31 October 2022

Thus, it is meaningful to limit reporting only to the indicators relevant for the corresponding market and assign this task to the NCAs. Only data that is common for all products should be collected at European level.

The assessment by supervisors should equally focus on costs and benefits of products

Most of EIOPAs indicators focus on costs. We see that benefits are underrepresented in the Value for Money assessment. Therefore, EIOPA should not only focus on benchmarks but include other aspects, in particular qualitative features and insurance protection of products in the Value for Money assessment.

EU clusters can only provide a basic picture and can only be correctly assessed by experts

We believe some clustering cannot be avoided when assessing outliers in the supervisory process. Some asset classes could for example have naturally higher access costs. Although EIOPA endeavours to reduce the number of clusters, important features (sustainability, guarantee, annuity) are still completely omitted and others (holding period (RHP), biometrics) are not differentiated sufficiently. In EIOPAs view RHP larger than 10 years is considered long. In Germany, it would be considered short since long means 40 years.

However, we are convinced that if clusters are sufficiently granular to be meaningful, clusters will include products from very few or even one market only. This is because IBIPs are very heterogeneous across Europe. Therefore, assessment and further data collection should be undertaken at national level only.

The same approach in product design and supervision is not meaningful and completely disregards consumer's perspective: the focus in the POG process must be on customer needs and not on quantiles of indicators. Instead, the characteristics, demands and needs of the target market should play a role in the POG assessment of Value for Money by the manufacturers. Since IBIPs are very heterogeneous, these characteristics should be defined at national level.

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Q1: Stakeholders are invited to provided inputs and views as to how value for money benchmarks should work and their usefulness for product comparability.
As EIOPAs work is strongly interlinked with the Retail Investment Strategy (RIS), we would like to address this relation: We understand that supervisors need tools to speed up and partially automate the outliers search. However, the current RIS proposal introduces a VfM framework that forces manufacturer to explain all deviations from the benchmarks. When used within RIS, EIOPAs work could lead to de facto price control with detriments for consumers, as the focus of product design would be shifted towards benchmarks instead of objectives, demands and needs of the customers. The introduction of standardised benchmarks would create an impediment to the CMU and would not help in stimulating investment.

EIOPA is asking about the benchmarks' usefulness for product comparability. Benchmarks can only give some orientation for supervisors that some products may (or may not) have less VfM, they cannot be used for absolute comparisons, not even for supervisors. The benchmarks to be developed by EIOPA should primarily serve as a general comparison of product lines in different European markets. These benchmarks will enable national supervisors to recognise potential structural deficiencies in their markets at an early stage. ESAP data is sufficient for this purpose. Precise indicators should be reserved for the national supervisors.

In EIOPA-BOS-22/482 EIOPA differentiates between Layer I indicators (soon available through ESAP) for the market-wide assessment, Layer II indicators for products under scrutiny and Layer III indicators if there are concerns in Layer I or Layer II. This is a proportionate approach. Now EIOPA intends to apply both Layer I and Layer II indicators on the entire European market. This puts the entire market under suspicion and is a very burdensome approach. We believe Layer I data is sufficient identify product lines at European level that require scrutiny. The application of Layer II with targeted national indicators should be left to NCAs.

Q2: Stakeholders are also invited to share whether they agree on what the benchmarks are and are not.
We welcome that EIOPA clarifies that VfM, especially benchmarks, aids NCAs in identifying products with poor value for consumers, i.e. being one of supervisory tools. EIOPA correctly points out that "Benchmarks should also not be seen and used for price regulation or cost-capping. In fact, EIOPA is of the view that the benchmarks cannot capture all products' specificities and all consumers' needs as these are varied in nature". This should be fully considered by the legislator in their extension of the VfM concept within the RIS. **In particular, benchmarks are not suitable for ranking products.**

We welcome clarification, that VfM framework should not only focus on costs but also on benefits of products and consider qualitative features. Given the different focus of the Commission's VFM proposal in RIS, it is particularly important that this is stated explicitly and clearly.

We support the clarification that VfM is not a disclosure tool for consumers since they can only be assessed by experts. EIOPA rightly points out that the methods developed are too complex for customers. EIOPA should also clarify that **benchmarks are not suitable for distributors as a product comparison tool**. Intermediaries do not focus on product features within specific clusters. They search for suitable products based on customers' demands, needs and preferences, fitting into the result of the suitability- and appropriateness assessment. For example, products from different clusters could be suitable, but they would not be comparable with another.

Although intermediaries provide professional advice to their customers, they are not actuaries. Intermediaries are commonly not product manufacturers. They should not duplicate preparatory work of manufacturers like determining the target market that is already carried out by the manufacturer. If intermediaries sell products within the specified target market, manufacturer's assurance of VfM should be enough.

Q3: Do you already have similar tools in your market that would serve the same purpose?
Yes, in Germany the supervisor BaFin published a Guidance Notice 01/2023 (VA) on Aspects of Conduct of Business Supervision for Savings Products. It is clearly a supervisory tool and it is tailored to the specificities of the German IBIPs. It follows a very simple risk-based approach: BaFin will scrutinise insurers whose RIY is very high compared to the rest of the industry. We believe EIOPA should follow the same approach: with the help of ESAP data identify product lines and Member States with potential VfM issues at European level. This will simplify the exercise for insurers as well as sharpen the conclusions drawn my EIOPA.

BaFin's publication is a pure supervisory tool that does not impose benchmarks in the POG process. It is a dialog among experts, usually actuaries and legal experts on the side of the insurance companies and the supervisory authority. By doing so business secrets can also be preserved.

Only national products are compared with each other, other European product offers are not used as a reference. This is consistent with EU markets and products being very heterogenous.

Q4: While EIOPA indicated that initially it will not publish the benchmarks, stakeholders are also invited to share views as to whether the benchmarks should be published or not already in the first initial phase.
We see a high risk that benchmarks will be used in the retail investment strategy as a price control tool. A publication of benchmarks in the "trial and error" phase would harbours the risk that the results will be wrongly used in the political discussion.

In general, it should be made clear that even if benchmarks are published, they are not meant as a tool for a broader public. Consumers could also draw wrong conclusions from the benchmarks. For example, they could think that every product that is below the benchmark automatically offers value for money. A comprehension alert that tells that benchmarks are not suited for a product choice, that they should never be interpreted as black and white and merely provide a formal arrangement of products is necessary if the benchmarks are published.

Finally, manufacturers should know the methodology behind the benchmarks, how they were derived and which other products / markets are captured by a cluster.

Q5: Stakeholders' views on the approach to product clustering are sought.
Clustering of product features should be applied in product supervision only. The POG process should reflect demands and needs of consumers within the product's target market. In the POG process it is less relevant whether products belong to some quantile or not. It will only distract the attention from what POG really needs to ensure: all products satisfying customers' needs. There is a risk that benchmarks would wrongly dominate the POG process. Competition is an aspect that comes into play in the free market and should not serve as an internal product ban.

IBIPs are very heterogeneous and there's a conflict between differentiation and manageable cluster numbers. In our view, the differentiation between essential and additional features is not appropriate. Qualitative as well as quantitative features are important to capture consumers' needs. EIOPAs 72 clusters may not adequately represent German IBIPs, see Q6. Additional features capture very essential qualitative properties of German IBIPs: asset type, presence of the pension option, guarantee level, enhanced risk mitigation techniques, presence of (ongoing) advice, various tools and services provided to customer and ESG features. That would lead to additional factor of 768, leading to >50 000 clusters.
Rather, basic clustering based on ESAP data like RIY can identify product lines needing scrutiny, without the need for extensive clustering at EU level. It will ensure that the number of products in each cluster is large.

Additionally, EIOPA could provide NCAs tools for further national investigations. EU-wide reporting of all data from all clusters and indicators will contain a lot of useless reporting and disproportionally increase the reporting burden. Markets with low overall costs will not need to provide very granular differentiated data as it can be assumed in general that the products will also perform well according to more differentiated indicators.

Q6: Do you agree with the essential and additional criteria for product clustering? Should additional criteria be collected?
German IBIPs are very flexible and reflect the possible changes in customers' lives. Thus, a product can belong to different clusters at different points in time. As previously mentioned in Q5, only Layer I indicators should be compared at EU level. Layer II indicators should only be applied for products that require closer scrutiny by NCAs.

The presence or the absence of advice has an impact on costs and should be considered as an essential feature. A tariff that is sold on a fee basis will look cheaper if the advice fee is not considered (as it is not part of the product). If product costs entail advisory costs, the value of advice may also be considered in the VfM assessment.

RHP: EIOPA puts all IBIPs with RHP >10 years in one cluster. In Germany, the vast majority of IBIP are used to provide for old age and therefore often have RHPs from up to 40 years and longer, minimum granularity should be 10, 20, 30 and 40 years (not considering the decumulation phase, where annuity is usually a default option). Many indicators EIOPA proposes are very RHP sensitive and depend on absolute cost figures, which would lead to incomparable results if all products with RHP >10 years were put in one group.

Biometric cover: The differentiation is not granular enough: first, different types of cover (death cover, life annuity, disability) are put in "biometric risks". Consideration should also be given to introducing a third option for the level of cover.

Sustainability: In our view, this is a key feature. At least three groups – according to Art. 6/8/9 SFDR – are necessary. A customer choosing an Art. 9 product, for example, has a different view of the costs and returns than a customer who is "indifferent" to sustainability.

As previously mentioned, we support minimal clustering based on ESAP data and a toolkit for national supervisors to expand clusters /indicators.

Q7: Do you agree with the proposed approach to use the additional criteria to either develop more detailed clusters or to provide qualitative considerations on how to take these elements into account when looking at the benchmarks?
We believe they should be treated as essential since they describe important features of many IBIPs, see our reply to Q6.

As regards pension benefit option, we do not agree that it leads to slightly higher costs. The overall costs will usually be lower compared to consumers purchasing an annuity at the end of the accumulation period.

It is wrong to use additional features merely for the detailed analysis by EIOPA on products that were singled out by the benchmarks. These features are essential and could cost money. Thus, these products could look too expensive if these additional features are not considered in clustering.

Again, this shows that clustering at EU level cannot be done in a granular enough fashion. In order to indicate to NCAs – that are responsible for product supervision – which products or product lines offer no or little value for money, it is sufficient to consider RIY. Refined clustering at EU level will either lead to small clusters or one-size-fits-all reporting. Additional burden with little additional merit.

Q8: Do stakeholders think that for MOPs Option 1 would suffice or that Option 2, which would be more substantial in terms of reporting but also more precise and granular, should be preferred?
First, we would like to reiterate that the majority of German MOPs are no wrappers. Hybrid products invest in general account of the insurer as well as in free funds. The dynamic asset allocation is performed by insurer. Even purely on the investment site, insurer does much more than “wrapping” funds.

We do not understand EIOPA’s motivation in the fund selection. Option 1 focuses on the cheapest, most expensive and average (according to which metric?) funds. This is not informative. Manufacturers should instead test the insurance component together within some system of representative funds. For example, five most sold funds as in EIOPA’s CPP report could be chosen as representatives or funds belonging to different risk classes.

The second option does not work for hybrid products. First, VfM for the funds will be already performed by asset managers. The focus of insurers’ VfM should be on the IBIB part. Insurers should be able to rely on cost and performance assessment by the asset mangers. The role of insurers is for example to check how the funds are integrated in the product, whether they have a good range of funds and not to repeat asset managers’ assessment. To test VfM of funds within the IBIP, it is not feasible to provide extensive calculations for the insurance product with every single investment option. For example, in a hybrid product where consumers can choose a guarantee level, RHP and payment modality, there could be 80 combinations on the IBIP level, all of which would have to be calculated with all the funds. A representative system as described above fulfils this aim with much smaller effort. It could only be considered in markets where insurers merely wrap funds and do not add any (non-linear) features to the products.

Q9: For Option 2 do you think the clustering approach should be revised by focusing more on the underlying options and less on some of the other essential product features?
We do not agree with the focus on underlying options. Insurers VfM should focus on the IBIP since this is the product insurers offer. The funds are already assessed by the asset managers and insurers rely on their assessment and perform only quality control. Insurers do not have the necessary data to generate all the indicators for funds (IRR, break even rate/time, RIY) according to PRIIPs methodology for funds. That is why it is crucial to rely on ESAP data.

Since the focus should be to test the IBIP, it is not feasible to provide extensive calculations for the insurance product with every single investment option. For example, in a hybrid product where consumers can choose a guarantee level, RHP and payment modality, there could be 80 combinations on the IBIP level, all of which would have to be calculated with all the funds. A representative system as describes above fulfils this aim with much smaller effort.

Furthermore, the wording is misleading: the proposal does not create a single cluster for MOPs but additional 588 clusters.

For German MOPs option 2 is not meaningful from the consumer perspective. Customer's objective within an IBIP is a totally different: they are interested in such features as guarantees at RHP, reduction of fluctuation, smoothing and pooling, diversification, access to special assets as infrastructure. These targets can be achieved through different asset allocations. In case EIOPA would like to measure how many funds are for example so expensive that they potentially do not offer value for money, a RIY at RHP is sufficient for this purpose.

Option 2 does not work for hybrid products. It has a very high degree of complexity and produces a lot of meaningless data for combinations never considered by customers (e.g. money market funds held for 40 years).

Q10: For Option 2 do you think that the inclusion of the profit participation investment option in the asset class feature is appropriate for a correct interpretation of hybrid products?
As mentioned in Q8 and Q9 we do not agree with option 2 since the focus should be on the IBIP and not on the underlying funds. Extensive calculations for the insurance product with every single investment option are highly disproportionate, generate a lot of meaningless data, rely on data not available to insurers and are highly burdensome for hybrid products.

The profit participation investment cannot always be considered as an investment option. In fact, in Germany it is often the core element of a hybrid product and not an option since it cannot be changed or deselected. From consumers' perspective it is the level of guarantees that matters. From this level insurer will derive a necessary asset allocation between the underlying investment options and the profit participation.

Again, in case EIOPA would like to measure whether funds or with profit investment are for example that expensive that they potentially do not offer value for money, a RIY at RHP (or generally layer I indicators) is sufficient for this purpose.
We support a modified Option 1 as described in Q8.

Q11: Stakeholders are invited to provide feedback on the use of VfM Methodology Level II indicators, are these a good fit for the benchmarks? Should Level I indicators be used?
The term "Level I" is not used in the consultation paper. The previous publication EIOPA-BOS-22/482 used the term "Layer I". We assume this is meant.

Previously EIOPA differentiated between market wide assessment (Layer I) through which NCAs would identify products requiring higher scrutiny. This assessment is based on the Solvency II reporting and on PRIIPs data that is available to supervisors and soon will be provided through the ESAP. Only products that require enhanced supervision are closely looked at (Layer II) through additional indicators.

However, in the current consultation EIOPA applies both Layer I and Layer II indicators on the entire market at EU level. This puts the entire market under suspicion. Only Layer I indicators should be applied to all products as it was initially intended.

Furthermore, it is a very burdensome approach: Due to very heterogeneous products across EU, a granular market-wide reporting would impose unnecessary reporting burdens on insurers. EIOPA is writing that "The relevance of each indicator per cluster will be further defined by EIOPA once the clusters are defined and the data on indicators is received to calculate the benchmarks". Thus, there will be a lot of data reporting that is not used eventually by supervisors. It is meaningful to limit reporting only to the indicators relevant for the corresponding market and assign this task to the NCAs. Only data that is common for all products should be collected at EU level.

EIOPA is writing that a set of indicators for each cluster will be interpreted jointly. First, it is not clear how to perform a joint assessment of indicators. Second, this proves why benchmarks can neither serve as a consumer disclosure nor product comparison tool (on websites, for distributors) as they can only be interpreted by experts.

We do not see that EIOPA has a concrete proposal on how to consider qualitative features of a product, which for IBIPs and consumers that buy them are central.

Q12: Stakeholders' views on the proposed indicators are sought, including on the intervals at which the indicators need to be assessed.
RIY is a robust cost indicator used in the PRIIPs KID and in the CPP reports. It can capture and compare various cost structures. For that minimal clustering is needed at EU level.

Some indicators are redundant: i) Required return at a given break-even point vs. break-even point at a given return, ii) $Surrender\ value/premiums\ paid$ vs. $Total\ costs/surrender\ value$, iii) RIY vs. $Total$ costs paid/premiums paid. The last indicator is highly RHP sensitive and discriminates products with a long RHP. It should not be used.

Indicators based on surrender values should not be considered. Most German IBIPs are pension products with RHP reaching 40 years and longer. Customers benefit from investments in long-term illiquid investments in the real economy, which also finance the ESG transition. Target market are consumers that save for retirement and do not want to withdraw early. Artificial optimising the products for early termination would automatically be at the expense of long-term pension provision. It is difficult or impossible to offer a similar return potential ahead of time also for cancelling customers. Additional benefits for these customers would inevitably be at the expense of those who use the contract for retirement provision. This conflict of interest should not lead to the detriment of consumers holding the product.

We understand that EIOPA sees advantages in consumers switching products. EIOPA should rethink this hypothesis: consumers act not always financially rationally. They switch during adverse market developments and realise losses since they do not "sit out" market crashes. Indicators shall be evaluated at RHP only.

Then, the comparison of products that include distribution costs and products that are sold against a fee would be skewed since the latter are not included in the costs of the product. The set of essential indicators does not take into account the fact that customers have used an advisory service for which appropriate remuneration must be paid.

Q13: Stakeholders are invited to also provide feedback as to which indicators works best for which cluster/product features.
We welcome that EIOPA has committed itself not only to look at costs but also at benefits of products. However, the quantitative indicators EIOPA is looking at are pure cost indicators or they depend on the performance assumptions. However, performance scenarios are meant to show that the return can vary and indicate some possible outcomes.

The return is an important part of the performance of life insurance products, but it is not the only criterion. Insurers offer guarantees/guaranteed annuities, pooling, smoothing and other risk mitigation techniques, access to illiquid and sustainable asset classes and a variety of services. These features are neither considered nor integrated in the benchmarks.

German IBIPs products are often bought for pension retirement purposes. Many customers are particularly risk-averse and choose life insurance products with protection against fluctuations. This often applies to customers with limited financial resources who are dependent on their savings for their old age. Requirements on particularly high IRR or early break-even points would mean that no products could be designed for these customers.

EIOPA provides an example of some product in the European market. In this example EIOPA provides an average yearly return of the underlying assets to break even at RHP. In fact, this corresponds more or less to RIY at RHP. EIOPA is investigating some additional indicators. One product needs an average rate of 7,3 % to break even. We argue that if costs are that high, it is already sufficient to determine that the product potentially could not offer value for money. This is where Layer II indicators as initially intended by EIOPA should be applied by the NCAs.
Thus, with minimal necessary clustering, RIY will provide a lot of valuable information to detect outliers. Thus, ESAP data is sufficient for a market-wide assessment.

Q14: Do you believe additional indicators should be measured?
No. EIOPA should use Layer I indicator as initially intended in EIOPA-BOS-22/482 and not put the entire market under suspicion. More granular indicators should be developed at national level if it is necessary for respective products.

Q15: In case option 2 for MOP is chosen, do you think that more appropriate indicators applicable only to the single investment options should be identified?
As mentioned in Q8 and Q9 we do not agree with option 2 since the focus should be on the IBIP and not on the underlying funds. Extensive calculations for the insurance product with every single investment option are highly disproportionate, generate a lot of meaningless data, rely on data not available to insurers and are highly burdensome for hybrid products.

Q16: Do you agree with the proposal of using PRIIPs KID assumptions for the moderate scenario for the calculations of the indicators? Should and additional scenario (point in time) being included to evaluate the current performance of the product?
In general, performance scenarios require sophisticated calculations. Therefore, the benefits should be weighted well against the burden for manufacturers. In particular, we believe that a modified option 1 on MOPs is sufficient to test VfM of the IBIP.

When looking at RIY, the moderate scenario is sufficient, since RIY depends only minimally on the performance assumption. If performance scenarios are looked at, one path is certainly not sufficient.

We also believe that the PRIIPs scenarios could be used to identify outliers, as these should be noticeable under any performance methodology. However, performance scenarios have limitations and only show potential ranges of returns. It is therefore important that if benchmarks are based on performance, due consideration is given to the fact that each percentile will automatically capture a proportion of products, whether they offer value for money or not.

We believe that additional point in time is not necessary since consumers purchase IBIPs to hold them until retirement. This means that the target market corresponds to consumers that wish to pay in until retirement and does not aim at early contract termination, even if cancellations are of course possible. Artificial optimising the products for early contract termination from the outset would automatically be at the expense of long-term pension provision.

Q17: Do stakeholders agree to use percentiles to define benchmarks?
Benchmarks can only serve as one tool among many for experts to identify potential Value for Money issues. Due consideration should be given to the fact that each percentile will automatically capture a proportion of products, whether they offer value for money or not. In a market with a generally low price level (and,

for example, a few outliers), cheap products will be captured by any benchmark. In fact, even in perfect markets there are always 10% of products that will be above the 90% percentile. Therefore, benchmarks should always remain neutral and must be used wisely.

In addition, it may be useful to look at the distance between the general price level and specific products.

As mentioned in our answer to Q5, quantiles are not meaningful as part of the POG process. POG process should focus on demands and needs of consumers only. If x% (or at least some of them) of the most expensive (or generally "worst") products are eliminated from the market, this leads to a gradual tightening of the requirements. In other words, it ultimately leads to price control, which EIOPA wants to avoid or rejects as an objective.

As the benchmarks cannot be evaluated on a stand-alone basis, it is important that there are no automatic consequences and no legal consequences for companies if products belong to a certain quantile.

Q18: Do stakeholders agree that percentiles should be defined once the data is available and that such percentiles should be adjusted as relevant?
In general, yes. It is not possible to define percentiles in advance. However, percentiles might not always be the right solution – cf Q17. Furthermore, EIOPA should avoid unnecessary data reporting and rely on ESAP data as initially intended for Layer I VfM. If a feature is not relevant for a certain product, manufacturers should not be obliged to still report the data.

Q19: In stakeholders' views are there some minimum/maximum percentiles which should be used?
See our answers to questions 17 and 18.

In order to capture outliers and have a practical risk-based supervision, percentiles need to be set high or even very high. However, due consideration should be given to the fact that each percentile will automatically capture a proportion of products, whether they offer value for money or not. In a market with a generally low price level (and, for example, a few outliers), cheap products will be captured by any benchmark. In fact, even in perfect markets there are always 10 % of products that will be above the 90 % percentile.

Since, quantiles are not able to capture outliers only and will capture other products as well, it is important to use other metrices such as distance to the mean.

Therefore, benchmarks and other metrices should always remain neutral and must be used wisely.

Q20: Do stakeholders think that the data collection should be expanded?
In line with President von der Leyen's commitment to reduce the reporting requirements by 25 % and make it simpler for small and medium enterprises to do business, EIOPAs work should not impose additional reporting but rely on the Layer I data from PRIIPs and SII data available either already or in future through the ESAP from all insurers. This was the initial intention by EIOPA. This data is sufficient to identify product lines and markets at European level and notify NCAs early about the potential issues. Layer II data collection was initially foreseen by EIOPA only for products that revealed issues in the Layer I data. Applying the Layer II indicators to all products, would contradict the principle of risk based supervision.

We believe that granular data collection should be performed at national level only. If performed at EU-level, a high granularity of clusters would be necessary to capture different key features. This would lead to an extensive data collection at EU level with most of the data being useless for a concrete product. This is because the markets and the products are very heterogeneous.
In particular option 2 on MOPs should be disregarded.

Q21: If yes, which data collection principles should be used?
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Q22: Do stakeholders foresee a significant impact in the data collection in terms of resources and time in comparison to the current Cost and Past Performance data collection?
Yes.

First, EIOPA collects data on funds that are to be calculated according to the fund methodology, that are not included in the fund KID (IRR, RIY without entry costs, break even time/rate) and that are not available to insurers. Second, EIOPA intends to collect all the possible combination of funds within an IBIP. This requires much more resources since current CPP report is based on five most sold funds. This is highly disproportionate, especially for hybrid products. It also produces a lot of meaningless data (e.g. money market fund held for 40 years). A simplified approach with five most sold funds or another representative system is needed.

Every change in the questionnaire of the cost and past performance data collection means a significant effort for the companies, especially if only a fraction of data will be eventually used. Therefore, all the changes must be introduced as bundle and with care.

Furthermore, it should be noted that only large entities take part in the cost and past performance survey nowadays. Thus, if all manufacturers were obliged to report, this would increase the burden.

Q23: How would you assess the impact that the benchmarks methodology would have in your organisation? Please consider both the data collection and the use of the benchmarks when they will be available.
See our response to Q22.

Q24: Do stakeholders agree with benefits of the proposed approach?
We believe that EIOPAs work should in first place benefit the NCAs by making their risk-based supervision work easier.

We welcome that supervision practice becomes more transparent to market participants. Since benchmarks cannot provide a full picture, it is important that they remain one tool in the supervisors' toolbox. Supervision should not focus too heavily on benchmarks.

Q25: Are there additional benefits in stakeholders' views?
It is too early to reflect on the benefits of the approach.

The co-legislators are still discussing the opportunity of introducing EU benchmarks as part of the RIS proposals and many policymakers in both the EP and Council have strong concerns regarding this approach. Against this background EIOPA should not rush its work but wait and develop a system that will fit into the future regulatory context once it becomes clear. Issues such as reporting are also still being discussed by the co-legislators. Outlining reporting solutions under the RIS mandate in the "Looking forward" section of this consultation paper is hence also pre-mature.

Q26: What could be the costs of implementing Option 2?
We reject option 2. It has a very high degree of complexity and increases the conflict of granularity of clusters vs. high quality data. The second option does not work for hybrid products. It is disproportionate to provide extensive calculations for the insurance product with every single investment option. The assessment of some representative options would be sufficient to assess VfM of an IBIP. It could only be considered in markets where insurers merely wrap funds and do not add any (non-linear) features to the products.

Furthermore, the wording is misleading: the proposal does not create a single cluster for MOPs but additional 588 clusters.

For German MOPs option 2 is not meaningful from the consumers' perspective. Customer's objective within an IBIP is a totally different: they are interested in such features as guarantees at RHP, reduction of fluctuation, smoothing and pooling, diversification, access to special assets as infrastructure. These targets can be achieved through different asset allocations. In case EIOPA would like to measure how many funds are for example so expensive that they potentially do not offer value for money, a RIY at RHP is sufficient for this purpose.

In our view, option 1 is sufficient with five most sold funds and maybe some other representatives.

Berlin, 14 March 2024