EIOPA partially supports a planned prohibition of some unit-linked life insurance products by the Polish Financial Supervision Authority and calls for coordinated action across Europe

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The European Insurance and Occupational Pensions Authority (EIOPA) has issued today an Opinion on a proposed product intervention measure of Komisja Nadzoru Finansowego of Poland (KNF) under the Packaged Retail and Insurance-Based Investment Products (PRIIPs) Regulation.

The KNF has identified risks for policyholders buying unit-linked insurance products in Poland, and has informed EIOPA and competent authorities of a proposed product intervention measure under Article 17 of the PRIIPs Regulation. The proposed measure aims to address product profitability, some of the investments being offered, and how fees and commissions are disclosed. The product intervention powers under the PRIIPs Regulation are a last resort measure to address and prevent specific significant investor protection concerns and should be used by competent authorities only under the strict conditions set out in the PRIIPs Regulation. In particular, the powers can only be used if applicable regulatory requirements under Union law do not sufficiently address the risks identified and the issue would not be better addressed by improved supervision or enforcement of existing requirements.

Following an analysis of the case, EIOPA concluded that there are significant investor protection concerns that should be addressed. The Polish unit-linked market appears, on the basis of data available to EIOPA, to be an outlier when compared to other European markets, notably due to the high level of costs. A
targeted product intervention measure to address risks associated with product profitability can be justified in the interest of consistent and timely action. Action is also justified and proportionate with regard to certain highly risky investments in contingent convertibles.

However, EIOPA is of the view that the proposed product intervention measure is not justified or proportionate for tackling other concerns with the investments being offered, or the transparency of fees and commissions. Other supervisory or regulatory measures could be considered instead.

EIOPA has highlighted concerns over the years with some unit-linked life insurance products, and has identified the emergence of similar value for money risks to those highlighted by KNF in the wider European market. This requires further coordinated action at the EU level, so as to tackle risks for consumers and avoid similar product interventions being necessary in the future. EIOPA therefore will launch a public consultation on measures to address value for money risks to ensure good outcomes for European consumers.

Background

Product intervention powers under Regulation (EU) No 1286/2014 (PRIIPs Regulation)

The PRIIPs Regulation confers product intervention powers to national competent authorities (NCAs) and EIOPA. According to these powers, NCAs and EIOPA can prohibit or restrict in the Union the marketing, distribution or sale of Insurance-Based Investment Products (IBIPs) with certain specified features or a type of financial activity or practice of an insurance or reinsurance undertaking. The use of these powers by NCAs is subject to the fulfilment of certain conditions: the issue raises either a significant investor protection concern, a threat to the orderly functioning and integrity of financial markets or a threat to the stability of the whole or part of the financial system and no existing regulatory requirements under Union law applicable to the IBIP, activity or practice do not sufficiently address the risks identified and the issue would not be better addressed by improved supervision or enforcement of existing requirements.
Legal basis

Pursuant to Article 18(2) of the PRIIPs Regulation, EIOPA is required to adopt and publish an opinion on whether a planned product intervention by a NCA is justified and proportionate. If EIOPA considers that taking measures by other competent authorities is necessary to address the risk, it must state this in the Opinion. The Opinion is formulated on the basis of the information provided by the relevant NCA, including details on the nature of the risk, supportive evidence and the scope and nature of intended product intervention measure.