Quddiem l-Arbitru għas-Servizzi Finanzjarji

Każ ASF 085/2026

EV u UV

('l-Ilmentaturi')

vs

MAPFRE MSV Life p.l.c. (C 15722)

('il-Fornitur tas-Servizz')

Seduta 25 t'Awwissu 2026

L-Arbitru,

Ra l-ilment,[1] fejn l-Ilmentaturi ssottomettew illi ma jaqblux mas-somma li qed tiġi offruta lilhom mal-maturità tal-polza, u dan minħabba li wara ħamsa u għoxrin sena, din hija ferm 'il bogħod mis-somma li kienet allegatament miftehma mar-rappreżentant tal-Fornitur tas-Servizz.

L-Ilmentaturi jiftakru li kienu ftehmu mal-istess rappreżentant li wara ħamsa u għoxrin sena, il-polza kienet ser timmatura fil-valur ta' bejn Lm18,914 u Lm23,717 (ekwivalenti għal madwar €44,085 – €55,246).

Wara dawn is-snin kollha fejn dejjem ħallsu l-*premium* fil-ħin, l-Ilmentaturi jħossuhom iddiżappuntati li s-somma offruta lilhom mal-maturità tal-polza hija biss €24,433.81.

Għaldaqstant, huma qegħdin jitolbu[2] li jingħataw somma viċin l-€44,085 – €55,246 kif kienu ftehmu mar-rappreżentant tal-Fornitur tas-Servizz.

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[1] Paġna (P.) 1 – 6, b'dokumenti addizzjonali, p. 7 - 58
[2] P. 3

Ra t-tweġiba tal-Fornitur tas-Servizz[3]

"*Reply of MAPFRE MSV Life p.l.c. in terms of Chapter 555 of the Laws of Malta*

1. *MAPFRE MSV Life plc ("MMSV") refers to the allegation made by the complainants that the maturity value of the Policy in question numbered FP407111 of nature Endowment Policy with Sum Assured ("the Policy") was not equivalent to the estimated maturity value including reversionary and terminal bonus which was indicated by MMSV when the Policy was sold to the complainants. Consequently, the complainants are requesting the Honourable Arbiter to order MMSV to provide compensation of an amount between €44,058 and €55,246.*

2. *In this regard, MMSV is of the view that the claimants' request is unfounded and therefore, the complainants are not entitled to receive any compensation in addition to the maturity value as is going to be explained in further detail hereunder. MMSV has also previously replied to the complainants in this sense by letter dated 16 February 2026 (fol.08).*

3. *In the first place, the amount being requested by the complainants is based on estimates shown in the handwritten signed quotation, provided by the complainant (fol.010) together with this complaint, along with the Important Notes, presented as MSV DOC 1. Therefore, none of the figures which were indicated in the quotation as ''estimated'' could be said to have been guaranteed.*

4. ***Furthermore, the quotation in question shows three different rates, calculated namely on the rates of 5.25%, 6.25% and 6.75%, showing three different scenarios of the estimated maturity value including reversionary bonus.*** *In fact, the estimated maturity value including reversionary bonus was indicated as Lm14,549, Lm16,907 and Lm18,24.* ***The quotation calculated the estimated maturity value including reversionary and terminal bonus. Therefore, the quotation clearly shows three Estimated Maturity Values including Reversionary and Terminal Bonuses, with values of Lm18,914, Lm21,980 and Lm23,717.***

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5. *However, apart from the fact that there were three scenarios and therefore none of those three scenarios could have been guaranteed. The "Important Notes" on the reverse of the quotation (MSV DOC 1) also state "Depending on the performance of the company, bonus rates may go down as well as up".* ***Hence, the quotation made it clear that these rates are not guaranteed and therefore could fluctuate. Such values were only projected amounts and not promised amounts.***

6. *The estimated maturity values shown in the quotation in question were calculated using the bonus rates that were being declared by MMSV at the time that the Policy was being sold.* ***<u>The estimated maturity values shown in the quotation were not guaranteed because they were based on the investment conditions and circumstances at the time.</u>*** *At the time, the bonus rate was much higher than it is today, with a rate of 4.75% in 2001 which started to decrease as from that same year onwards with minor fluctuations throughout. The most important factor that affects bonus rates is the underlying investment performance and in recent years the investment returns internationally were lower.* ***<u>This shows that the quotation provided was indeed correct as it was issued according to the circumstances at the time, therefore, MMSV had acted in good faith.</u>***

7. *It has also been stated in the "Important Notes" (MSV DOC 1) that "Investment returns can go down as well up and therefore past performance is not necessarily a guide to the future" Besides the fact that the quotation itself presented* ***three scenarios*** *and provided that those scenarios could not materialize if the rates were to change and therefore said figures could not have been guaranteed.*

8. *The Important Notes (MSV DOC 1), delve into the meaning of "Reversionary Bonuses" and "Terminal Bonus". The said notes also explain that the Policy was participating "****<u>in the Company's distribution of its profits by means of an allocation of annual Reversionary Bonuses declared from time to time …</u>*** *Reversionary Bonuses, once declared, are guaranteed to be paid at maturity or on prior death of the Life Assured."* ***<u>Therefore, these notes explained that there was an element of investment to the Policy and that it was not obligatory for MMSV to declare reversionary bonuses every year but that it was in its discretion to do so.</u>*** *Therefore, the amounts mentioned,*

indicated in the quotations as "Maturity Value including estimated Reversionary Bonus" were not guaranteed because one needed to wait until the finalisation of the bonus declaration process in order to confirm whether MMSV was going to declare a reversionary bonus for the previous year and if in the affirmative at what rate, and it was only at that time that the complainants could have been certain of how the value of the Policy Account of their Policy was increasing over the years. This is so, because as was explained in the notes, it was only those bonuses which were declared by MMSV from time to time which were in fact guaranteed to be paid to the complainants.

9. *With regards to the "Terminal Bonus", the same document showing the Important Notes also explains that "Depe**nding on its profits experience the Company may,** after the end of the Policy's TENTH year, and ten year's full premia have been paid, decide to allocate from time to time a Terminal Bonus in addition to other declared bonus… However, as they depend materially on the investment performance at the time of the claim, they may be reduced or even withdrawn altogether". Therefore, the three amounts mentioned, being indicated in the quotation as "Maturity Value including estimated Reversionary Bonus and Terminal Bonus" were likewise not guaranteed since the terminal bonus was highly volatile. This was also explained in the definitions section provided with the policy account statement for year ending 2023 (DOC. MSV 2), whereby it is stated that "Final Bonus means an extra amount, which may be allocated at Maturity or upon payment of a Death Benefit. It is highly dependent on the investment performance of the MAPFRE MSV With-Profits Fund and MAPFRE MSV Life p.l.c. is under no obligation to pay a Final Bonus, meaning that this is not guaranteed.''*

10. *Furthermore, the only amount mentioned in the Life Policy Schedule (fol.014) was the sum assured of LM5,000 and no amounts containing the word 'Estimate' were mentioned in this Schedule, which further shows that according to the agreement between the parties the estimated maturity value including reversionary bonus and the estimated maturity value including reversionary bonus and terminal bonuses were never guaranteed.*

11. *The notes that formed part of the quotation (MSV DOC 1) also provided that "Whilst the purpose of these notes is to **guide** policyholders and prospective*

*policyholders, the **<u>conditions applying to all the benefits provided by the Policy are defined in the Policy document ...</u>** <u>In case of conflict of meaning between this quotation and the Policy document, the Policy document shall prevail</u>." **<u>This meant that the complainants could not treat the quotation as a stand-alone document, but it had to be read and understood in the light of the notes that formed part of the quotation and more importantly in the light of the terms and conditions of the Policy document</u>**.*

12. *It is to be noted that the Proposers in fact signed at the bottom of the Life Assurance Quotation (fol.010) and hence confirmed that:*

    "I/We hereby confirm that I/We have read and understood the Important Notes to this quotation and that the Representative has fully explained the notes overleaf to me/us and we are satisfied with the policy/s illustrated and its explanation."

13. *At the moment that the Policy was being sold, MMSV had provided the complainants with sufficient information about the Policy, including the fact that part of it was an investment, what the eventual maturity value shall be made up of and how the said amount was calculated including that the bonus rates may go up or down as expressly shown in the quotations and the other documentation provided by the Company.*

    Notwithstanding, the complainants are merely basing their claim on estimated maturity value without putting them in the context of all the documents provided to them when the Policy was being sold to them and every year thereafter as shall be explained hereunder.

14. *MMSV continued to act in good faith even after the Policy was issued in favour of the complainants until the maturity thereof because it always managed the MSV With Profits Fund in the best interest of the policyholders, including the complainants. In fact, the said fund has been managed not only subject to the scrutiny of MMSV's executive management and investment committees, but also subject to the scrutiny of the independent actuary director of Willis Towers Watson and of the Malta Financial Services Authority. The performance of the said fund is entirely and always subject to the changes and shifts that take place in the value of the investment markets in which MMSV invests the investment premium of its policyholders.*

<u>Therefore, the difference between the estimated maturity values shown in the quotation and the maturity value is merely reflective of the shift in the performance of the investment markets during the term of the Policy.</u>

15. *Notwithstanding the fact that the maturity value could not be equivalent to the estimated maturity values indicated in the quotations due to the said shift in the performance of the market, the investment part of the Policy still rendered a good return when compared to other similar investments that were available during the term of the Policy despite the fact that the return was made while there were at least three financial crises. In fact, the complainant made a gain in the amount of €7,227.64 after deducting the investment premium that was paid by the complainant from the maturity value, and this represents a rate of return-on-investment premium amounting to 3.1% and a rate of return (gross of 15% withholding tax) on investment premium amounting to 3.6%. It also needs to be emphasised that the maturity value of the Policy is tax free and that this benefit is not applicable in other forms of regular savings where the complainant would have been otherwise obliged to pay taxes from their return.*

16. *During the term of the Policy, MMSV always kept the complainants informed about the value of the Policy Account, how the said value was increasing every year and about the bonuses that were being declared by MMSV, which bonuses were being credited to the Policy Account of the Policy. This information was communicated to the complainants by MMSV sending on a yearly basis, a Policy Account Statement together with the so-called Important Notes. As from 2001, MMSV also started sending to the complainants, every year, a Media Release (copies of the Policy Account Statements are presented as fol. 037-056). Therefore, the complainants were fully aware of what bonuses were being declared and of the value of the Policy over the years. Apart from the use of the term "Estimated" which was conditional in the quotation which is self-explanatory, the Important Notes forming part of the Policy Account Statements mentioned above as well as the media releases have repeatedly made it clear that the bonus rates were not guaranteed and that they depended on the performance of the underlying investments, and therefore, said investments could go up as well as down. Therefore, the values of the Maturity Value including estimated*

Reversionary Bonus and Maturity Value including estimated Reversionary and Terminal Bonuses indicated in the quotation could be varied depending on the performance of the investments during the term of the Policy.

17. *Furthermore, it needs to be noted that apart from the investment element, the Policy also provided a guaranteed life cover for the duration of the Policy. This amount was guaranteed to be paid upon death of the Life Assured, in fact it is referred to as the 'Sum Assured' on the Policy Schedule (fol.014) with an amount of LM5,000. Another characteristic of this Policy is that the investment premium, which as at the date of the maturity of the Policy had amounted to €17,206.17 was in fact also guaranteed to be paid upon maturity or on prior death of the life assured and this in addition to the bonuses which would have been declared by MMSV during the term of the Policy. This was not the case with other investments, such as those known as unit-linked policies where no amounts were guaranteed.*

18. *Therefore, MMSV adhered to its obligations under the Policy because the Maturity value of the Policy exceeded the investment premium that was paid by the complainants by an additional €7,227.64 which represents the bonuses that have been declared by MMSV during the term of the Policy. Thus, despite the reduction in bonus rates over time, the Policy in question was still a valuable investment because in addition to the tax-free "Maturity Value", the Policy also provided cover on the complainants' life.*

19. *As explained, MMSV has met all its contractual obligations, because the quotation did not guarantee the estimated maturity values, but the estimated maturity values were only an indication of the potential performance of the Policy which could vary in the future.*

20. *It is clear that the Policy does not guarantee payment of the estimated maturity values but guarantees that the* ***maturity value*** *is paid in the event that the life assured is still living when the Policy matures. The maturity value according to the Maturity Notification Letter issued one month in advance of the maturity date (fol. 058) states that "The Maturity Value shown here is illustrative and may be different if the bonus rates change or if the interest rate on premium/policy loans changes or if any outstanding premiums due remain unpaid" This implies that no estimate could crystallise the value that*

would be paid to the complainants on the maturity date of the Policy in question because that value could only be realised on the date of maturity of the Policy. Therefore, naturally the figures indicated on the quotations could not be guaranteed because the maturity value continues to change until the maturity date of the Policy and therefore the Company observed its obligations according to the Policy in question.

21. *The comment made by the complainants in the online complaint (fol.003), stating that "Dak iz-zmien konna fthemna li is-somma finali wara 25 sena ta hlas ta premiums (li dejjem hallasna fil-hin) kella tkun bejn 18,914 u 23,717 Liri Maltin ta dak iz-zmien." has no basis, since the complainants signed the quotation, showing estimated values and not an agreement showing a promised maturity value. The Company has always managed the MSV With Profits fund in the best interest of its policyholders. Moreover, the company provided the complainants with yearly statements, keeping them informed on the performance of the investment. On the contrary, even though the investment returns were decreasing, the Company always declared bonuses at its discretion. In fact, as stated in the Important Notes marked as MSV DOC. 1 "The Company aims to achieve a fair and equitable distribution of these investment returns and profits between different generations and types of with-profits policies. In addition the company aims to provide policyholders with some protection from fluctuations in the investment markets by smoothing bonus rates from year to year."*

22. *MMSV maintains that the Policy was sold in accordance with the regulations that were applicable at the time when the Policy was being sold. In fact, the complainants were presented with the Statutory Notice (MSV DOC 3) that was issued in compliance with the provisions of the Life Insurance (Statutory Notice) Regulations, 1989. The Statutory Notice set out several warnings including the right of the complainants to withdraw from purchasing the Policy and the manner to do so. This Notice was intended to give policyholders the right to withdraw from the transaction when the policyholder may have second thoughts about the policy or was allegedly pressured to purchase the policy. However, in this case, the complainants did not exercise any of the said rights set out in the Notice and consequently agreed to proceed with the Policy.*

23. *Finally, MMSV maintains that it has always adhered to its obligations under the Policy and therefore, it should not be ordered to pay any compensation other than the final maturity value or any expenses that may be incurred in relation to this procedure because it has been instituted for no valid reason, as shall also be proved during the course of these proceedings.*

With reservation for any further pleas."

Seduti

Fl-ewwel seduta tal-25 ta' Mejju 2026, dehru l-Ilmentaturi.

L-Ilmentatur ikkonferma l-kontenut tal-ilment bil-ġurament u ddikkjara s-segwenti:

"***Ngħid li jien ma rajthiex fair li dak iż-żmien, fis-sena 2001 kont ġejt offrut life assurance li meta tagħlaq nieħu ċertu ammont; almenu jiena bsart li nieħu l-inqas ammont miċ-ċifri kkwotati.***

Mhux qed ngħid għall-ogħla wieħed għax hemm tliet tipi ta' ammonti.

Ngħid li dak li xtaqt. Naf li ċertu individwi ħadu xi compensation. U għalfejn m'għandix nieħu jien ukoll bħalma ħadu dawn?

Vera li qalu li kienu qabel is-sena 2000, imma ma nafx x'differenza tagħmel minn qabel is-sena 2000 u wara s-sena 2000.

Ngħid li jiena qed nitlob kumpens bejn €44,000 u €50,000, l-ekwivalenti taċ-ċifri fil-Liri Maltin li kienu ġew ikkwotati."[4]

Taħt kontroeżami huwa wieġeb:

"***Mistoqsi niftakarx dak li spjegali r-rappreżentant li biegħli l-polza 25 sena ilu, ngħid li ma naħsibx li niftakarx x'intqal 25 sena ilu. Ngħid li jiena għandi quotation bil-miktub u fuqha nista' nitkellem.***

Jien dejjem ħallast il-premiums kull sena bit-tama li fl-aħħar meta tagħlaq il-polza nieħu somma sostanzjali. Kieku kont naf li kienu ser joffruli s-somma ta'

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€24,000, wisq probabbli ma kont nagħmilha xejn il-polza dak iż-żmien. Kont inpoġġihom il-bank u nieħu l-istess ammont ta' flus.

Ngħid li qed nibbaża fuq id-dokumenti. Ngħid li għandi xi mkien miktub imma insejt x'jismu s-salesman dak iż-żmien. Muscat mingħalija kien.

Qed niġi referut għall-kwotazzjoni (paġna 10 tal-proċess) u nikkonferma li dik hija l-firma tiegħi u tal-mara.

Naqbel li l-kwotazzjoni hija bbażata fuq tliet stimi.

Mistoqsi allura kif jista' qatt ir-rappreżentant li biegħli l-polza iggarantili xi ammont partikolari jekk tani kwotazzjoni fuq tliet stimi, ngħid li hemm tliet stimi u almenu jiena ppretendejt li nieħu l-istima l-aktar baxxa bit-Terminal Bonus.

Ngħid li jiena ppretendejt bejn l-inqas u l-ogħla għax hekk hemm fuq id dokumenti u fuq x'jgħidlek is-salesman. Għax jekk ikun salesman tajjeb jimlilek rasek illi inti ser tieħu somma kbira meta tagħlaq l-insurance li, fil-fatt, mhu veru xejn dan.

Naqbel li kien hemm l-Important Notes fuq wara tal-kwotazzjoni.

Nikkonferma l-firma tiegħi fuq l-iStatutory Notice.

Qed jingħad li fl-Important Notes hemm miktub:

> *'Depending on the performance of the Company, bonus rates may go down as well as up'.*

Fl-aħħar paragrafu hemm miktub: 'Investment returns can go down as well as up and therefore past performance is not necessary a guide to future performance.'

Fuq it-Terminal Bonus hemm 'as they depend materially on the investment performance at the time of the claim. They may be reduced and even withdrawn.'

Mistoqsi allura naqblux li mid-dokumenti jidher ċarament li qatt ma setgħu iggarantewli l-ebda stima li kien hemm għax dan kollu kien jiddependi fuq l-investimenti, ngħid li iva, imma d-dokumenti mhumiex kollox. Għandek is-

salesman li qiegħed speċi jwiegħedek. Allura dan jew ser jiġi jitmellaħ bik meta jiġi jagħmillek is-sale jew ma nafx! Fuq dik nista' nitkellem jiena. Għax int toqgħod fuq li jgħid is-salesman ta' dak iż-żmien. U jekk ma tantx tkun tifhem fl-affarijiet speċi tibla' s-sunnara bħalma ġrali jiena.

Mistoqsi naqbilx li jien għadni kif għidt li qed nibbaża fuq il-karti għax ma niftakarx dak kollu li qalli s-salesman, ngħid li niftakar hu li dak li qal kitbu hawn. Hu li jikteb jgħidlek.

Mistoqsi tajtx kas il-karti, ngħid li iva tajt kashom, qegħdin quddiemi.

Mistoqsi jekk tajt kashom dak iż-żmien, jekk tajtx kas dak li nqara lili issa, li ma kien hemm xejn garantit, ngħid li mela s-salesman jiġi, jitkellem u ma jagħtik garanzija ta' xejn. Mela ovvja hekk għamilli dak iż-żmien. Forsi kont għadni żgħir dak iż-żmien, jien u l-mara konna għadna żgħar u dak iż-żmien wegħedna xi ħaġa li wara li jgħaddu 25 sena trid toqgħod fuq il-karti mbagħad.

Mistoqsi naqbilx li wara l-meeting, kelli ħmistax-il ġurnata biex naħsibha, ngħid li iva imma dawn kollha skużi. Missu ma ġie xejn joffrili s-servizz mill-ewwel.

Qed jingħad li kont aware b'dan, ngħid li iva kont aware imma aware ukoll li l-kumpanija ser tmur tajjeb u l-bonus finali kien ser ikun wieħed minn dawk it-tliet quotations li tawni għax int moħħok ikun fuq dak li qallek, li tkun ser tieħu ċertu somma. U għalhekk tagħmilha, għax kif diġà għidt, kieku ma kont nagħmel xejn.

Mistoqsi kontx konxju li l-polza barra element t'investiment kellha life cover, ngħid li iva. Naqbel li kien spjegahieli waqt il-meeting.

Mistoqsi naqbilx li kull sena kont nirċievi Policy Account Statements bl-Important Notes li kienu juruni kif kienet sejra l-polza, ngħid li iva.

Mistoqsi kontx nagħti kashom, ngħid li iva. Imma kont ngħid ser nibqa' nħallasha mhux ser inwaqqafha, jiġri li jrid.

Ngħid li kull meta kont immur inħallas il-premium il-Furjana, kienu jgħiduli, 'Dik hi. Dak li għandek miktub hemm.' Ma tantx hemm spjegazzjonijiet kbar x'wieħed jista' jagħti; kollox ikun miktub black on white.

B'danakollu, jien kont nippretendi li ser nieħu xi ħaġa aktar milli s-somma li offrewli. Għax din tal-MSV Life kienet anke fuq il-gazzetti li kien hemm min għamel complaint u kien ħa xi ħaġa wara aktar mis-somma li offrewlu.

Mistoqsi meta għamilt il-polza ridtx nagħmel investiment riskjuż jew ridtx inġemma', ngħid li jien il-kapital ma ridtx nitilfu. Kieku kienet xi ħaġa li stajt nitlef il-kapital, ma kontx ser nagħmilha żgur.

Mistoqsi kif kien sar il-kuntatt bejni u s-Sur Muscat, ngħid li dan kien ċempilli biex niltaqgħu. Naf żgur li kien ġie d-dar tiegħi u l-kliem sar fid-dar tiegħi minn fejn qed nitkellem illum.

Wara saru l-karti, irċevejt il-polza, kemm ser nibda nħallas fis-sena u daqshekk.

Mistoqsi kemm kien dam il-meeting mas-Sur Muscat, ngħid li ma tantx dam, forsi xi nofs siegħa. Ngħid li dakinhar konna ffirmajna l-quotation biss. Mistoqsi x'edukazzjoni kellna dak iż-żmien, ngħid li jien kont naħdem u l-mara tiegħi ma kinitx qed taħdem għax konna qed inrabbu t-tfal.

Ngħid li iva kont nifhem u naqra bl-Ingliż. Wisq probabbli kien qalhielna bil-Malti wkoll."[5]

Fit-tieni seduta ta' nhar l-24 ta' Ġunju 2026, deher bħala xhud tal-Fornitur tas-Servizz, is-Sur Joe Muscat:

"***Ngħid li jien kont inbiegħ il-poloz tal-assikurazzjoni tal-MSV partikolarment dawk tal-Endowment Assurance with Profits.***

Nikkonferma li kont biegħejt il-polza, P40111, tal-Endowment Assurance with Profits lis-Sinjuri EV u UV fir-rigward tal-Proposal Form annessa man-nota li bagħtu l-MSV ilbieraħ.

Ngħid li normalment konna nieħdu l-appuntamenti mill-uffiċċju tagħna, r-Rosewall (rappreżentanti). Kellna nies li jċemplu lil klijenti biex jaraw humiex interessati f'dawn it-tip ta' poloz u lilna kienu jgħaddulna min ikun interessat.

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Ngħid li kont mort għand is-Sinjuri. Normalment ma konniex nagħlqu f'darba. Konna nispjegaw il-polza kif inhi u mbagħad jekk bniedem ikun interessat, konna nimlew il-karti neċessarji.

Fl-ewwel ġurnata konna nħallu l-Quotation biex dak li jkun ikun jista' jaħsibha.

Fl-istima, kif jidher f'dan il-każ, konna nagħtu tliet rati. Jien kont inħobb ngħid – għax dejjem tirrepeti u tiġi awtomatika l-ħaġa – li għandek tliet rati għax ma jfissirx li hemm rata partikolari kif jinħadmu imma skont kif tkun sejra l-kumpanija bħala returns minn dak li tkun investiet. Dak kien jiġi kkwotat kull sena u dak ikun garantit. Il-bqija, inti ser timxi sena b'sena skont l-investiment kif imur.

Kif nafu, dak iż-żmien il-banek kienu bil-5.5% fissi imma waqgħu ukoll. Ma neħduhiex kontra l-MSV; jien personali kelli polza u ngħid imnalla għamilthom hemm għax almenu ħadt somma fl-aħħar. Ma ħadtx dak li kien hemm fil quotation ovvjament.

Ngħid li l-vantaġġ li għandek huwa li ġaladarba l-MSV tikkwota x'ser tagħti bħala Reversionary Bonus għal dik is-sena partikolari, dak huwa fil-but. Mhux bħall funds li fl-aħħar ma tafx x'ser tieħu.

B'din il-polza taf fejn qiegħed.

Ngħid li kont nispjega li bil-Life Cover, jekk Allaħares qatt, xi ħadd mill-partikolari jiġi nieqes, ser tieħu s-somma assigurata.

Malli l-kont jeċċedi s-somma assigurata, inti dejjem ser tieħu l-ogħla wieħed.

Nikkonferma l-firma tiegħi fuq Dok. MSV 3 li hija l-Proposal Form u nikkonferma li nkun tajthielhom f'waħda mil-laqgħat li kien ikollna. Qed niġi muri wkoll l-iStatutory Notice li kienet tagħti ħmistax-il ġurnata żmien biex wieħed jaħsibha.

Nikkonferma l-firma tiegħi fuq il-Life Assurance Quotation (paġna 10 tal proċess).

Nikkonferma li nkun tajt l-Important Notes li jkunu fuq wara tal-quotation fl ewwel laqgħa mal-klijenti. Ngħid li l-Important Notes għandhom is-sub-titles.

Hemm ir-Reversionary Bonus li kull sena jiġi ddikjarat mill-kumpanija u once li jiġi ddikjarat imur fil-but tal klijent.

L-iSpecial Bonus imur għat-Terminal Bonus. Dan mhuwiex garantit imma jingħata jekk il-kumpanija tmur tajjeb. Jekk wieħed iħares lura jara li l-MSV aktar tagħtu milli ma tagħtux. Imma kull sena hija partikolari.

Kont nispjega s-Surrender of Policy li wieħed għandu l-facilità li jista' jwaqqafha. Fl-ewwel tliet snin, ma jieħu xejn. Normalment trid tgħaddi nofs it-term tal-polza biex wieħed jieħu l-flus minnha.

Aħna qatt ma nissuġġerixxu li wieħed iwaqqaf polza kemm dik li għamilna aħna u kemm dik ta' xi ħadd ieħor.

Dwar it-Terms Benefit konna ngħidu li peress li wieħed ikollu l-flus marbutin, jista' jitlob pre-payment meta tieqaf il-polza għax kien hemm każ ta' mewt, jista' jieħu pre-payment biex jagħmel il-funeral. Ovvjament dawn jinqatgħu mis somma tal-aħħar.

Nikkonferma li kont nispjega d-differenza bejn ir-Reversionary Bonus u t-Terminal Bonus.

Ngħid li jien ma stajtx inwiegħed li ser jieħdu xi waħda mis-somom li hemm tar-Reversionary Bonus li hemm fuq il-Quotation. Qabel kienu jagħtu rata waħda u maż-żmien indunaw li dak li jkun jaħseb li s-somma kienet garantita. U issa l-quotations qed joħorġu bi tliet rati. Imma jiena kont dejjem ngħid li ma jfissirx, la naħa u lanqas l-oħra li f'dak it-terminu ser timxi.

Ngħid li kont nispjega li kienu estimated. Hemm miktub fuqha.

Qed jingħad li l-Ilmentaturi għamlu allegazzjoni li għidtilhom li fl-aħħar tal-polza ser jieħdu l-istima l-aktar baxxa bit-Terminal Bonus.

Ngħid li jiena ma kont niggarantixxi xejn. Fil-bidu, kif nidħol kont ngħid, 'M'hawn xejn garantit; lanqas flusna l-bank ma huma garantiti!'

Ngħid li jien ma niftakarx dan il-każ partikolari. Imma jien kont f'kull każ ngħid l-istess affarijiet. Kont nirrepeti; għamilt 25 sena nbiegħ dawn il-poloz. Ngħid li m'għadnix inbiegħhom dawn il-poloz. Ili li waqaft 10+ milli nbiegħ dawn il-poloz.

Ngħid li jien kont liċenzjat mill-MFSA biex inbiegħ dawn il-poloz.

Ngħid li jien qatt ma kont ngħidilhom li r-rati kienu fissi.

Fuq l-iStatutory Notice kont nispjega li għalkemm qed tiffirma, ma jfissirx li issa intrabatt. Xorta waħda għandek ħmistax-il ġurnata oħra biex tkun tista' taħsibha.

U konna nagħtu karta biex, jekk ikun irid, jimliha u jibgħatha l-MSV u l-polza tieqaf hemm."[6]

L-Ilmentatur iddikjara li ma kellux mistoqsijiet għax-xhud.

Fis-sottomissjonijiet finali tiegħu, l-Ilmentatur issottometta s-segwenti:

"***Ngħid li issa għaddew ħamsa u għoxrin sena. Jiena dejjem żammejt mal-ammonti li ħallast kull sena. Kont nagħmel sagrifiċċji biex inħallashom għax il-mara ma kinitx taħdem dak iż-żmien.***

Ngħid li kienet farsa li nagħmel din il-polza.

Ngħid li mid-dehra każijiet bħal tiegħi diġà ġraw għax kont qed infittex fuq it-Times of Malta tas-6 ta' Settembru 2025, li kien hemm xi każijiet bħal tiegħi u ingħataw compensation.

Ngħid li dawn il-każijiet huma bħal tiegħi eżatt u ġieli ngħataw compensations."[7]

Fis-sottomissjonijiet finali tiegħu, il-Fornitur tas-Servizz issottometta s-segwenti:

"

1. ***Fl-ewwel lok nixtiequ nirrimarkaw illi l-MSV tixtieq tistrieħ fuq l-eċċezzjonijiet imniżżlin fir-risposta tagħha. Però, nixtiequ nagħmlu numru ta' osservazzjonijiet:***
2. ***Huwa allegat li l-MSV wegħdet il-ħlas tal-estimated maturity value including reversionary bonus u terminal bonus minflok dak li hu indikat bħala maturity value. L-MSV qed tikkontesta dan għax il-wegħda li***

[6] P. 90 - 92
[7] P. 92 - 93

għamlet kienet dik ipprovduta fil-kuntratt tal-polza, li kien il-ftehim bejn il-partijiet. Fil-fatt, il-Preamble tal-polza jgħid:

'The Company hereby agrees to pay either the Death Benefit or the Maturity Value'.

Peress li din il-polza (Numru FP407111, Comprehensive Flexi Plan ta' natura Endowment with Profits) waslet għall-maturità fid-19 ta' Jannar 2026, huwa irrelevanti li nitkellmu dwar id-death benefit iżda niffukaw fuq il-Maturity Value. L-MSV ottemperat mal-garanzija li tat għax ħallset il-Maturity Value ta' €24,433.81 (li tinkludi l-policy account u final bonus ta' €653.95).

3. *L-ammont abbażi ta' xiex qed isir l-ilment huwa bbażat fuq quotation li ngħatat minħabba li l-MSV kienet obbligata bil-liġi li tagħtiha meta persuna tkun trid tixtri polza. L-ilmentaturi fl-ilment tagħhom qed jitolbu kumpens bejn €44,058 u €55,246, iżda ma ppreżentaw l-ebda dokument li juri li ġie mwiegħed ammont partikolari.*

4. *Il-quotation (fol.10), li ġiet iffirmata mill-ilmentaturi nfushom u datata 16 ta' Jannar 2001, tiddistingwi bl-aktar mod ċar bejn is-"sum assured" (li kienet l-unika figura garantita) u l-maturity value li hija espressament ikkwalifikata bħala estimated. Fil-fatt, il-quotation tgħid "The quotation provided is for illustration only and does not confer any rights". Fil-fatt, il-quotation turi tliet xenarji differenti ta' estimated maturity values b'rati ta' 5.25%, 6.25% u 6.75%, u għalhekk ma setax ikun garantit ammont wieħed partikolari. Din il-firxa wiesgħa ta' ammonti kkwalifikati bil-kelma estimated, turi b'mod ċar li dawn kienu stimi u mhux ammonti garantiti.*

5. *Kif ħareġ mix-xhieda tas-Sur Joe Muscat, ir-rappreżentant tal-bejgħ li biegħ il-polza, huwa fl-ebda ħin ma ggarantixxa l-figuri mniżżlin bħala estimated maturity value. Huwa b'mod ċar stqarr illi l-unika garanzija li ta lill-ilmentaturi kienet fir-rigward tas-sum assured li kien garantit on death, jiġifieri Lm5,000 (€11,646.87). Huwa spjega wkoll li kienu garantiti biss l-ammonti li l-MSV tkun fil-fatt iddikjarat bħala bonuses, u li t-terminal bonus kien jingħata biss fid-diskrezzjoni tal-kumpanija. Is-Sur Muscat ikkonferma li dejjem spjega li l-estimated maturity values*

huma projections ibbażati fuq it-tliet rati u li dawn setgħu jvarjaw 'l fuq jew 'l isfel skont il-bonus li tiddikjara l-MSV kull sena.

6. *L-ilmentaturi ddeċidew li jqisu l-quotation bħala l-kuntratt, li mhux il-każ, u għażlu li jinjoraw dak li hemm miktub fil-quotation (li hija kollha kkwalifikata b'estimated), dak li hemm fil-Polza, u dak li spjega s-Sur Muscat, u baqgħu jinsistu li kienu mwiegħda somma partikolari.*

7. *Irid jingħad ukoll li l-fatt li l-quotation inħadmet fuq tliet xenarji differenti, jiġifieri b'rati ta' 5.25%, 6.25% u 6.75%, minflok rata waħda, juri li l-MSV kienet kawta u dan jirrifletti l-ħsibijiet tal-Onorabbli Arbitru f'kawżi riċenti deċiżi minnu li trattaw poloz simili. Fil-fatt, fil-każ ASF 013/2024 FG vs MAPFRE MSV Life p.l.c., l-Onorabbli Arbitru qies li: 'Il-fatt li l-kwotazzjoni kien fiha tliet Projected Maturity Values ibbażati fuq tliet future rates differenti huwa aktar minn indikattiv li dawn kienu stimi u mhux garanziji'. Dan il-prinċipju japplika bis-sħiħ għall-każ preżenti fejn il-quotation tal-ilmentaturi wkoll kienet tinkludi tliet xenarji differenti.*

8. *Għalhekk, l-MSV ma tħossx li huwa ġust li tiġi kkastigata fuq xi ħaġa li għamlet ai termini tar-regoli u l-good market practice ta' dak iż-żmien u bl informazzjoni li kellha għad-dispożizzjoni tagħha, liema prattika għadha segwita sal-lum. Id-differenza bejn l-estimated maturity value u l-maturity value hija riżultat taċ-ċirkostanzi li ma kinux fil-kontroll tal-MSV, għax dik id-differenza seħħet minħabba t-taqlib fid-dinja tal-investimenti.*

9. *Il-verżjoni tal-ilmentaturi hija kkontestata primarjament għax hemm numru ta' kontradizzjonijiet u inċertezzi li joħorġu mill-verżjoni tagħhom stess:*

    a. *Fix-xhieda tiegħu tal-25 ta' Mejju 2026, l-ilmentatur stqarr li ma jiftakarx x'intqal 25 sena ilu u li qed jibbaża fuq id-dokumenti (Ngħid jien għandi quotation bil-miktub u fuqha nista' nitkellem), u saħansitra ma kienx ċert mill-isem tar-rappreżentant ("Muscat mingħalija kien"). Minkejja dan, huwa jgħid, u nikkwota, illi ġie 'speċi imwiegħed', kontradizzjoni flagranti għax wieħed ma jistax* *jgħid li ma jiftakarx x'intqal u fl-istess ħin jiftakar eżattament kemm ġie mwiegħed.*

b. *Mistoqsi kif seta' qatt ir-rappreżentant jiggarantixxi ammont partikolari jekk ta kwotazzjoni mibnija fuq tliet stimi, l-ilmentatur ammetta li l-kwotazzjoni hija bbażata fuq tliet stimi iżda qal li "ippretenda" li jieħu mill inqas l-istima l-aktar baxxa bit-terminal bonus. Din mhix wegħda iżda aspettattiva unilaterali tiegħu u ġiet stabbilita minnu stess u juri li l-ħsieb oriġina mix-xewqa tiegħu li jieħu dan l-ammont.*

c. *Fix-xhieda tiegħu, l-ilmentatur stqarr li "naf li ċertu individwi ħadu xi compensation" u staqsa "għalfejn m'għandix nieħu jien ukoll bħalma ħadu dawn?" Dan juri li l-ilmentatur qed jibni l-pretensjoni tiegħu fuq dak li allegatament ħadu persuni oħra u mhux fuq il-merti tal-każ tiegħu stess.*

d. *L-ilmentatur ammetta li mid-dokumenti jidher ċar li ebda stima ma setgħet tiġi garantita għax kollox kien jiddependi fuq l-investimenti, iżda pprova jiġġustifika l-pretensjoni tiegħu billi qal li "d-dokumenti mhumiex kollox" u, allura, hawnhekk tidher kontradizzjoni oħra għax lewwel qal li qed jibbaża fuq id-dokumenti imbagħad qal li d-dokumenti mhumiex kollox.*

e. *Barra minn hekk, l-ilmentatur stqarr ukoll fix-xhieda tiegħu li dak li qal (ir-rappreżentant) kitbu hawn. L-ilmentatur qal ukoll li hu li jikteb jgħidlek. Dawn id-dikjarazzjonijiet, fil-fatt, jaqilbu kontra l-istess pretensjoni tiegħu, għax jekk dak li qallu r-rappreżentant kien fil-fatt imniżżel bil-miktub fid-dokumenti, allura, d-dokumenti nfushom li l-ilmentatur iffirma, juru b'mod ċar li l-figuri kienu estimated u mhux garantiti. Fi kliem ieħor, dak li qal ir-rappreżentant huwa rifless eżatt f'dak li hemm miktub fil-quotation u fl-Important Notes, u dawn jikkonfermaw li ebda ammont ma kien imwiegħed bħala garantit.*

f. ***Kontradizzjoni oħra hija li hu qal li ta kashom id-dokumenti u ikkonferma li kien konxju li l-bonus rates setgħu jitilgħu kif ukoll jinżlu, u xorta waħda baqa' jibni l-każ tiegħu fuq stima u mhux fuq il-figura garantita.***

g. ***L-ilmentatur ikkonferma fix-xhieda tiegħu li jaf jaqra u jifhem kemm bl-Ingliż u kemm bil-Malti allura kienet negliġenza da parti tal-ilmentaturi li, minkejja li kellhom għarfien tal-Ingliż u tal-Malti, ibbażaw id-deċiżjoni tagħhom biss fuq il-figuri li raw fuq il-kwotazzjoni u interpretawhom bħala garantiti, u għalhekk ma eżerċitawx l-opportunità li kellhom li jikkanċellaw il-polza fi żmien 15-il ġurnata. Huma kienu informati b'dan id-dritt permezz tal-iStatutory Notice (Dok. MSV 3), li huma rċivew u ffirmaw fis-16 ta' Jannar 2001.***

h. ***Dawn il-kontradizzjonijiet u l-inċertezzi jnaqqsu b'mod sostanzjali l-affidabbiltà tax-xhieda tal-ilmentatur u jsaħħu l-argument li ma saret l-ebda wegħda mir-rappreżentant tal-bejgħ.***

10. L-ilmentaturi ma ppreżentaw l-ebda prova li ġarrbu xi opportunity loss minħabba l-Polza in kwistjoni. Tant huwa hekk illi fix-xhieda tiegħu, l-ilmentatur qal li ma riedx jitlef il-kapital u bħala alternattiva kien ipoġġihom il-bank u jieħu l-istess ammont ta' flus. Barra minn hekk, il-maturity value ta' €24,433.81 tinkludi qligħ ta' €7,227.64 fuq l-investment premium totali ta' €17,206.17, li jirrappreżenta rate of return-on investment premium ta' 3.1% u rate of return (gross of 15% withholding tax) ta' 3.6% — return tajjeb meta mqabbel ma' investimenti simili matul perjodu li fih kien hemm diversi kriżijiet finanzjarji.

11. Barra milli kienet investiment, il-polza kienet isservi ta' life cover: kieku l-assigurat ġie nieqes anke l-għada li ħallas l-ewwel premium, l-eredi kienu jkunu intitolati jitħallsu mill-MSV is-sum assured ta' Lm5,000 (€11,646.87), liema somma kienet garantita on death u l-ilmentatur kien konxju ta' dan.

12. ***Irid jingħad ukoll illi kull sena l-ilmentaturi ngħataw il-Policy Account Statements flimkien mal-Important Notes, li kienu juru r-rata tal-bonus iddikjarata u l-andament tal-polza, minkejja li r-rati kienu nieżlin. L-ilmentatur innifsu kkonferma fix-xhieda tiegħu li kien jirċievi dawn id dokumenti u li kien jagħti kashom imma qal li kien sa jibqa' jħallasha u mhux ser jwaqqafha jiġri li jrid. L-Important Notes kienu jgħidu b'mod ċar li 'Investment returns can go down as well as up and therefore past performance is not necessarily a guide to the future'. Għalhekk l-ilmentaturi kellhom informazzjoni regolari u sħiħa tul il-ħajja tal-polza li tindikalhom li l-ammonti ma kinux garantiti.***

13. ***Għalhekk hija ċara illi l-aspettattiva li l-ilmentaturi jirċievu l-estimated maturity value including reversionary u terminal bonus ma kinitx waħda leġittima. Għaldaqstant, l-MSV tiċħad l-allegazzjoni li dan kien bejgħ qarrieqi u titlob li l-ilment jiġi miċħud bl-ispejjeż kontra l-ilmentaturi***."[8]

Sema' lill-partijiet.

Ra l-atti kollha tal-każ.

Jikkunsidra:

FIL-MERTU

L-Arbitru jrid jiddeċiedi l-każ b'referenza għal dak li, fil-fehma tiegħu, huwa ekwu, ġust u raġonevoli fiċ-ċirkostanzi partikolari u merti sostantivi tal-każ.[9]

Il-punt kruċjali f'dan l-ilment jittratta l-ammont offrut lill-Ilmentaturi mal-maturità tal-polza, liema ammont ivarja sostanzjalment minn dak allegatament miftiehem.

L-Arbitru jrid imur għall-waqt li kienet qed tinbiegħ il-polza ilmentata, x'ġie mwiegħed lill-Ilmentaturi, u x'eventwalment ġie offrut lilhom mal-maturità. Irid jara wkoll kif sar il-bejgħ tal-prodott ilmentat u, fuq kollox, jekk dan laħaqx *"l-*

[8] P. 93 - 97
[9] Att dwar l-Arbitru għas-Servizzi Finanzjarji, Kapitolu 555 tal-Liġijiet ta' Malta, Artikolu 19(3)(b).

aspettattivi raġonevoli u leġittimi tal-konsumaturi u dan b'referenza għaż-żmien meta jkun allegat li jkunu seħħew il-fatti li jkunu taw lok għal-ilment."[10]

L-Arbitru għandu quddiemu żewġ pożizzjonijiet opposti dwar dak li verament ġara u ntqal waqt il-laqgħa tal-bejgħ. Ir-rappreżentant tal-Fornitur tas-Servizz ikkonferma li kien biegħ din il-polza lill-Ilmentaturi iżda ammetta li ma jiftakarx dan il-każ partikolari. Madankollu, huwa spjega b'mod dettaljat il-proċedura li kien jimxi magħha u l-ispjegazzjoni li kien jagħti fil-laqgħat mal-klijenti prospettivi kollha. Huwa saħaq li dejjem kien jikkjarifika r-rati xi jfissru u li xejn ma huwa garantit.

Min-naħa l-oħra, l-Arbitru jrid janalizza x'wassal lill-Ilmentaturi sabiex isostnu l-verżjoni tagħhom – jekk kienx hemm xi forma ta' memorja selettiva mill-Ilmentaturi jew jekk dan huwiex każ ta' *misselling* min-naħa tal-Fornitur tas-Servizz.

L-Ilmentatur xehed li jħossu ddiżappuntat li minn tliet ċifri lanqas l-inqas waħda ma ġiet offruta. Huwa qal li ma jiftakarx dak li kien spjegalu r-rappreżentant li biegħlu l-polza ħamsa u għoxrin sena ilu, imma li qiegħed jibbaża ruħu fuq l-istima li kienet ingħatatlu. Iżda mbagħad, meta ġie muri l-*Important Notes*, qabel li d-dokumenti ma kinux jiggarantixxu stima u saħaq li "***d-dokumenti mhumiex kollox***" u li għandha tingħata importanza wkoll lil dak li qal jew wiegħed ir-rappreżentant.

Għalkemm l-Arbitru jaqbel li dak li ntqal fil-laqgħat huwa importanti, l-Ilmentaturi ma ġabu l-ebda prova li s-sur Muscat wiegħedhom xi ċifra partikolari. Dan in vista wkoll tal-verżjoni dijametrikament opposta tas-sur Muscat stess dwar x'intqal meta biegħ il-polza:

"***Fl-istima, kif jidher f'dan il-każ, konna nagħtu tliet rati. Jien kont inħobb ngħid – għax dejjem tirrepeti u tiġi awtomatika l-ħaġa – li għandek tliet rati għax ma jfissirx li hemm rata partikolari kif jinħadmu imma skont kif tkun sejra l kumpanija bħala returns minn dak li tkun investiet. Dak kien jiġi kkwotat kull sena u dak ikun garantit.***

...

[10] *Ibid*. Artikolu 19(3)(ċ).

Ngħid li jien ma stajtx inwiegħed li ser jieħdu xi waħda mis-somom li hemm tar Reversionary Bonus li hemm fuq il-Quotation.

...

Ngħid li jiena ma kont niggarantixxi xejn. Fil-bidu, kif nidħol kont ngħid, 'M'hawn xejn garantit; lanqas flusna l-bank ma huma garantiti!'

...

Ngħid li jien qatt ma kont ngħidilhom li r-rati kienu fissi."[11]

Għaldaqstant, l-Arbitru jkollu jistrieħ fuq x'hemm miktub bl-iswed fuq l-abjad u, ċioè, d-dokumenti ppreżentati. Wara kollox, l-Ilmentatur ikkonferma li dak iż-żmien kien jifhem u jaqra bl-Ingliż.[12] Il-kwotazzjoni u d-dokumenti annessi magħha jwissu li l-valuri mniżżlin huma biss "*estimate*",[13] li "*[t]he quotation provided is for illustration only and does not confer any rights*",[14] u li "*bonus rates may go down as well as up*".[15] L-Ilmentatur wieġeb ukoll li kien konxju bil-*cooling-off period* imsemmi fl-Avviż Statutorju.[16]

Fil-kwotazzjoni hemm ukoll tliet rati mniżżlin – 5.25%, 6.25%, u 6.75% – li jkomplu jixhdu li s-somom kienu biss stimi u l-ebda waħda ma kienet garantita. Infatti, fil-kontroeżami, l-Ilmentatur qabel "***li l-kwotazzjoni hija bbażata fuq tliet stimi***."[17] Iżda kompla jispjega li huwa ppretenda li minn tlieta jieħu tal-inqas "***l-istima l-aktar baxxa bit-Terminal Bonus***."[18]

L-Ilmentatur ammetta anke li kienu konxji li din il-polza kien fiha element ta' investiment imma "***il-kapital ma ridtx nitilfu. Kieku kienet xi ħaġa li stajt nitlef il-kapital, ma kontx ser nagħmilha żgur***."[19]

[11] P. 90 - 92
[12] P. 76
[13] P. 10
[14] *ibid*.
[15] P. 70
[16] P. 75
[17] P. 74
[18] *ibid*.
[19] P. 76

Minbarra dan l-element, l-Ilmentatur ikkonferma li kien jaf bil-benefiċċju tal-*life cover* li kienet toffri l-polza.[20]

Huwa evidenti d-diżappunt tal-Ilmentaturi fil-konfront tar-ritorn li għandhom mill-polza in kwistjoni, imma fl-istess waqt, ma ppreżentawx provi li dak iż-żmien kellhom għażla aħjar minn polza bħal dik ilmentata, jew inkella xi kont bankarju b'rati aħjar. Għalhekk, l-Ilmentaturi naqsu milli jippreżentaw xi tip ta' prova li ġarrbu *opportunity loss* minħabba li ddeċiedew li jixtru l-polza offruta abbażi tal-informazzjoni mogħtija lilhom.

Biex tintlaħaq il-figura kkwotata jrid isir '*compounding*' b'rata għolja li għalkemm kienet fattibbli fis-sena 2000, ma kinitx xi ħaġa li setgħet tiġi sostnuta u garantita għal ħamsa u għoxrin sena sħaħ. Għalhekk, għandu jiġi kkunsidrat il-fatt li anke persuna li mhijiex daqstant intiża fil-finanzi xorta tifhem li mhuwiex f'loku li tassumi li dawn ir-rati kienu ser jibqgħu f'dak il-livell għal ħamsa u għoxrin sena, speċjalment peress li l-kontribuzzjonijiet kienu mifruxa fuq medda ta' ħamsa u għoxrin sena, għall-kuntrarju ta' '*lump sum investment*' li tiġi nvestita mill-ewwel biex b'hekk torbot ir-rati tal-imgħax għal tul ta' żmien.

L-Arbitru jifhem li polza bħal din taħdem bil-mod kif spjegat mill-Fornitur tas-Servizz fit-tweġiba għall-ilment[21] u mhuwiex qed jiddeċiedi mod ieħor f'dak ir-rigward.

Barra minn hekk, meta l-Arbitru ħares lejn l-andament kumplessiv tal-polza ilmentata, ra li r-rendiment tagħha kien ta' kważi 3.6%[22] li, fiċ-ċirkostanzi kollha, ma kienx wieħed ħażin, u għalhekk, dan għandu wkoll jiġi ikkunsidrat fi sfond fejn il-kapital tal-investiment u l-qligħ dikjarat kienu sostanzjalment garantiti, flimkien mad-'*death benefit*' u l-benefiċċju li somma finali tkun mingħajr taxxa mnaqqsa.

F'każi oħra simili, l-Arbitru kkritika lill-Fornitur tas-Servizz li kien joħroġ stima waħda fil-kwotazzjoni u dan, minkejja dak kollu li jkun iffirma l-Ilmentatur li l-istima ma kinitx garanzija, seta' nissel aspettattiva differenti f'moħħ l-Ilmentatur.

[20] P. 75
[21] P. 64 - 72
[22] P. 96

B'hekk, f'dawk il-każi, l-Arbitru kien ta xi kumpens limitat għall-fatt li l-istess Fornitur tas-Servizz kien naqas meta ma tax stimi bbażati fuq rati differenti, biex il-klijent jifhem sew li fuq medda twila ta' snin xejn mhu garantit u l-istimi jistgħu ivarjaw sew.

Iżda f'dan il-każ, il-kwotazzjoni kienet ibbażata fuq tliet stimi ta' xenarji differenti u l-Ilmentaturi ma kellhomx inisslu pretensjonijiet li bilfors ser jieħdu xi waħda minn dawk l-istimi. Anzi, suppost kellhom jifhmu li l-fatt li ħarġu diversi stimi fuq xenarji differenti, allura, xejn ma kien garantit, lanqas l-istima l-aktar baxxa.

Deċiżjoni

Għar-raġunijiet surreferiti, l-Arbitru jħoss li dan l-ilment mhuwiex ekwu u raġonevoli, u għaldaqstant mhux ser jiġi milqugħ.

Kull parti għandha ġġorr l-ispejjeż tagħha.

Alfred Mifsud
Arbitru għas-Servizzi Finanzjarji

<u>**Nota ta' Informazzjoni relatata mad-Deċiżjoni tal-Arbitru**</u>

Dritt ta' Appell

Id-Deċiżjoni tal-Arbitru legalment torbot lill-partijiet, salv id-dritt ta' appell regolat bl-Artikolu 27 tal-Att dwar l-Arbitru għas-Servizzi Finanzjarji (Kap. 555) ('**l-Att**'), magħmul quddiem il-Qorti tal-Appell (Kompetenza Inferjuri) fi żmien għoxrin (20) ġurnata mid-data tan-notifika tad-Deċiżjoni jew, fil-każ li ssir talba għal kjarifika jew korrezzjoni tad-Deċiżjoni skont l-Artikolu 26(4) tal-Att, mid-data tan-notifika ta' dik l-interpretazzjoni jew il-kjarifika jew il-korrezzjoni hekk kif provdut taħt l-Artikolu 27(3) tal-Att.

Kull talba għal kjarifika tal-kumpens jew talba għall-korrezzjoni ta' xi żbalji fil-komputazzjoni jew klerikali jew żbalji tipografiċi jew żbalji simili mitluba skont l-Artikolu 26(4) tal-Att, għandhom isiru lill-Arbitru, b'notifika lill-parti l-oħra, fi żmien ħmistax (15)-il ġurnata min-notifika tad-Deċiżjoni skont l-artikolu msemmi.

Skont il-prattika stabbilita, id-Deċiżjoni tal-Arbitru tkun tidher fis-sit elettroniku tal-Uffiċċju tal-Arbitru għas-Servizzi Finanzjarji. Dettalji personali tal-ilmentatur/i jkunu anonimizzati skont l-Artikolu 11(1)(f) tal-Att.