Insurance Europe final response to the ESAs discussion paper on key information documents for packaged retail and insurance-based investment products (PRIIPs)

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1. Introduction

1: Do you have any views on how draft RTS for the KID might be integrated in practice with disclosures pursuant to other provisions?

The aim of the PRIIPs Regulation is to ensure that retail investors are provided with accurate, fair, clear and not misleading pre-contractual information. Parallel and equivalent disclosure requirements under different EU legislation mean that there will be a duplication of some pre-contractual information provided to retail investors. It is, therefore, likely that the information will be provided to retail investors in different format in line with the different legislation applying. This would lead to an overload of information and confusion for retail investors as well as contradict the objectives of the Regulation.

For example, Solvency II and the PRIIPs Regulation require equivalent information to be disclosed such as (but not limited to) on the insurer's identity[1], the duration of the contract[2] and the existence of complaints procedures[3]. Another example illustrating such duplication of equivalent requirements under different pieces of legislation is related to the disclosure of costs of the product under MiFID and IMD 2 as well as the PRIIPs Regulation[4].

[1] Article 185.2(a) of the Directive 2009/138/EC of 25 November 2009 of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II); and Article 8.3(a) of Regulation 1286/2014 of the European Parliament and of the Council on key information documents for package retail and insurance-based investment products (PRIIPs Regulation)
[2] Article 185.3(b) Solvency II and Article 8(3)(c)(v) PRIIPs Regulation
[3] Article 185.3(l) Solvency II and Article 8(3)(h) PRIIPs Regulation
[4] Articles 27, 30, 31, 32 and 33 of the Directive 2006/73/EV of 10 August 2006 implementing Directive 2004/39/EC of the European Parliament and of the Council as regards organizational requirements and operating conditions for investment firms and defined terms

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As such, product manufacturers should be able to provide all the required equivalent pre-contractual information through the KID so as to allow a simplified and integrated set of pre-contractual information. In order to be able to do so, consistency regarding the equivalent disclosure requirements should be ensured in all the EU initiatives introducing information disclosure requirements. The most consumer-friendly approach to address this issue in practice could be examined during the consumer testing exercise.

2. Issues for Retail Investors

3. What are the risks and what could I get in return?

2: Do you agree with the description of the consumer´s perspective on risk expressed in the Key Questions?

While the key questions on risks and rewards identified in table 3 of the discussion paper focus on the main characteristics of risks and rewards, the questions themselves use informal and negative wordings and are more concentrated on the risks. This is particularly the case when compared to the requirements for UCITS funds. It is of utmost importance that risks and reward features of PRIIPs are properly balanced.

In this context, it is understood that these key questions have been identified to describe the consumer perspective rather than for the purpose of being disclosed as such in the KID. The only question related to the risks that should appear in the KID is "what are the risks and what could I get in return?" as established by Article (8)(3)(d) of the PRIIPs Regulation. It is important, therefore, that the questions correspond to and do not go beyond the provisions of the PRIIPs Regulation.

In addition, it seems pertinent to add that the terms and wordings of the questions introduced by the PRIIPs Regulation for the headings of the KID already carry some negative connotations. The regulators must be cautious to ensure that, in this context, the rest of the structure and presentation of the KID do not lead to an overly negative document. This is notably because findings of behavioural research have proven that risk aversion is one of the strongest behavioural biases.

Regarding these key questions, Insurance Europe would like to notably stress that:

- Using questions in the first person wrongly creates the impression the KID contains personalised information rather than general pre-contractual product information disclosed on the product manufacturer's website.

- Negative questions such as *"could I lose money?"* may unduly alarm retail investors without achieving the objective of comparability. Such questions may rather discourage retail investors from investing.

- Informal questions such as *"how much can I win?"* should be reformulated to ensure that it is understood that PRIIPs are investment products designed and managed by professional product manufacturers in order to satisfy client needs as opposed to pure speculative products or even games/lottery.

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for the purposes of that Directive (MiFID), Article 12 of Directive 2002/92/EC of 9 December 2002 of the European Parliament and of the Council on insurance mediation (IMD) and Article 8(3)(f) PRIIPs Regulation.

- The inclusion of questions such as *"is risk and return balanced?"* would go beyond the provision of pre-contractual information as they encompass a judgement element which should be left to retail investors (possibly on the basis of professional advice).

- In the follow-up questions related to loss, care should be taken to ensure that capital guarantee (e.g. provided for the whole duration of the insurance by the insurer through a contractual obligation and specific solvency requirements) and capital protection (e.g. the protection of the initial investment at maturity date as proposed by structured products) are not presented as being equal. This is notably to allow for retail investors to appreciate the difference in value between both. Whereas insurers have to fulfil stringent solvency requirements when proposing a product with a guaranteed interest rate, this is not the case for a structured product proposing a capital protection at maturity.

- In addition to this, it should be noted that these protections should not be confused with insolvency protection schemes which may be applicable to certain products.

3: Do your agree that market, credit and liquidity risk are the main risks for PRIIPs? Do you agree with the definitions the ESA's propose for these?

The proposed definitions are a good starting point. It is important, however, to underline that whether or not these risks are relevant for a retail investor would depend on the product itself.

For insurance-based investment products market risk is the most relevant factor, whereas the credit and liquidity risks are more relevant for non-insurance PRIIPs.

As far as credit risk is concerned for insurance-based investment products, the Solvency II regime already incentivises the diversification of insurers' risks and ensures the financial capability of insurers to fulfil their contractual obligations, even under stressed conditions. In addition, in some countries, insurers' credit risk is further reduced thanks to insolvency guarantee schemes which should, therefore, be taken into account when assessing the credit risk.
Depending on how credit risk is understood, the credit risk of the underlying financial instruments can be relevant for unit-linked products although it is key to stress that the credit risk of the underlying assets may end-up being already reflected in the PRIIP's market risk and should under no circumstances be accounted for twice.
Regarding liquidity risk, retail investors usually purchase insurance-based investment products because they seek a long-term investment, which is a feature of the product rather than a risk. Then, for such a product, the liquidity risk is less relevant per se considering that the investor has purchased this specific product notably because it has a long-term horizon.

It should be emphasised, however, that, as opposed to the consideration introduced in the discussion paper, the impact of inflation on the value of the PRIIP should not be included as one aspect of the market risk mainly because this feature is not included in pre-contractual information disclosure for other products (MiFID and UCITS for instance). In addition, inflation is not a risk that is inherent for PRIIPs but affects all investment products in the same way. This information is not useful, therefore, for retail investors nor does it increase comparability or transparency of products.

4: Do you have a view on the most appropriate measure(s) or combinations of these to be used to evaluate each type of risk? Do you consider some risk measures not appropriate in the PRIIPs context? Why? Please take into account access to data.

It is important to achieve a balanced result whilst avoiding the elaboration of disproportionally complex measures. Qualitative measures and generic criteria, in parallel with quantitative measures, should also be taken into account to determine the appropriate risk category. Especially, for credit and liquidity risk, generic criteria should be used. Only for market risk measurement, a combination of both quantitative and generic criteria can be used.

As the scope of PRIIPs is very wide, it should also be acknowledged that the inclusion of certain elements, relevant to one group of products, might be irrelevant for another set of products. It is important that assumptions are set in line with the product features. It is key that a coherent and balanced approach is chosen to ensure that the insurance-based investment products are scaled correctly when comparing with other insurance-based investment products as well as with other PRIIIPs. This is very important to ensure a level-playing field. It is, therefore, necessary that different KIDs templates are used for different types of PRIIPs.

It seems also important to note that establishing a very complex methodology is likely to have an effect on the compliance costs.

Finally, since risks and reward as well as performance and costs of a PRIIP are strongly correlated, a consistent approach and presentation of these features throughout the KID are needed.

5: How do you think market, credit and liquidity risk could be integrated? If you believe they cannot be integrated, what should be shown on each in the KID?

In the interest of ensuring that the KID is usable for retail investors, risk indicators should be as clear as possible. As already mentioned, the inclusion of certain elements, relevant to one group of products, might be irrelevant for another set of products and different methodologies should be used. In this context, it is considered that aggregation of the risks will not be feasible for many products considering that it is believed that for insurance-based investment products: (1) for credit and liquidity risk, generic criteria should be used and (2) only for market risk measurement, a combination of both quantitative and generic criteria can be used.

Qualitative information regarding the credit and liquidity risks could be added within the narrative explanation of the risks which are materially relevant for the PRIIP and which cannot be adequately captured in the risk indicator, if relevant for the product.

6: Do you think that performance scenarios should include or be based on probabilistic modelling, or instead show possible outcomes relevant for the pay-outs feasible under the PRIIP but without any implications as to their likelihood?

It is of utmost importance that the retail investors understand the performance scenarios. Deterministic modelling is, therefore, more suitable for the performance scenarios.

Practice and consumer testing[5] have shown that probabilistic modelling is often not understood by retail investors as opposed to deterministic modelling. Detailed analysis (also based on consumer testing) on this question has also been undertaken during for the key information disclosures for UCITS[6]. This clearly outweighs the benefits of probabilistic modelling.

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[5] Cf for instance ABI "Research into presentation of risk and return to consumers"

[6] As CESR stated in its advice to the European Commission (see "CESR's technical advice to the European Commission on the format and content of Key Information Document disclosures for UCITS", 19 April 2010, Ref.: CESR/09-995, page 3) "The work carried out by CESR in that respect envisaged two possible options for performance scenarios:

- Option A: prospective scenarios showing the return of the fund under favourable, adverse and average market conditions;
- Option B: tables showing the probability of certain defined events: achieving a negative return or achieving a positive return worse, equal to or better than the risk-free rate.

A large majority of respondents to the consultations expressed a preference for Option A, prospective scenarios. Many of the respondents that supported Option A expressed strong disagreement with Option B on the basis that it would be misinterpreted as a guarantee and that the reliance on risk-neutral probabilities in the methodology was flawed. Option A was retained by CESR in its final advice. "

7: How would you ensure a consistent approach across both firms and products were a modelling approach to be adopted?

It is important that an appropriate solution for the different objectives the KID is aiming to achieve is found (ie. comparability, legal certainty and helpful for retail investors). Modelling will be needed and the general principles of the models could be set at EU level.

Fine-tuning or detailing the assumptions at EU level (such as setting the initial amount invested), however, might prove to be very difficult notably because of (1) the different spectrums of products available in different markets and (2) the differences in investment behaviour and capital at expense across the EU. This fine-tuning should be in line with consumer behaviour at national level.

- Setting similar assumptions for all products would most likely result in retail investors not receiving relevant information and certain products outperforming others based on the KID although they might not be the best fit for all retail investors. This is notably the case for insurance-based investment products providing additional benefits. As such, it is important that the level II measures do no result in information that might be confusing or even misleading to retail investors.

- In addition, as far as different investment behaviours are concerned, it is also of utmost importance to ensure that retail investors are not directed away from certain products that match their interests and investments on the basis of a KID only because it is not tailored to the features of the products appropriately. For example, the average investment by a retail consumer could significantly differ from country to country as a result of investor behaviour and/or average purchasing power.

In this context, high-level general principles for the performance scenarios should be set at EU level, while the fine-tuning or detailing of the assumptions to be used should be developed at a national level by the different PRIIPs manufacturers in cooperation with the local supervisory authorities to ensure a certain level of comparability between the different products and within certain product classes. This would also ensure that the assumptions and methodology used do not impact the product development and ultimately the product design.

8: What time frames do you think would be appropriate for the performance scenarios?

Again, it is important that an appropriate solution for the different objectives the KID is aiming to achieve is found (ie. comparability, legal certainty and helpful for retail investors).

The timeframe and other assumptions should be set in line with the product features, ensuring sufficient flexibility. In addition, these should be consistent with the maturity of the product, or if not known, with the recommended holding periods (in case of open-ended products for example) which also tends to vary depending on various factors.

Inadequate and irrelevant scenarios, which are not tailored to the product, would lead to additional complexity and confusion for retail investors. It is important, therefore, that the properties of insurance-based investment products are taken into account in the modelling of the performance scenarios. It is necessary that the timeframe and other assumptions are set in line with the product features. For example, the term of the

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In the same document (see page 22) CESR also "…considered carefully the merits and drawbacks of the two disclosure options for structured funds, as well as the comments made by respondents on each. Taking into account the support from a strong majority of respondents for Option A, prospective scenarios, CESR has confirmed this approach in its final advice. This choice is also based on the results of the Commission's consumer testing exercise, which showed that prospective scenarios lead to a good level of understanding by investors."

product should be reflected in the performance scenarios (whether it is three months or 30 years) appropriately. Usually, insurance-based investment products have a long-term when compared to other investment products. This feature should be taken into account adequately.

9: Do you think that performance scenarios should include absolute figures, monetary amounts or percentages or a combination of these?

As a general remark, it should be kept in mind when developing performance scenarios, that these should be understandable to retail investors. As such, equilibrium must be found between easing comparability and usefulness for retail investors. If a KID would have the sole purpose of having full comparability between all products used in Europe, there is a risk that the KID might not direct retail investors to the products that fit their own personal situation.

It is of utmost importance that the information in the KID is balanced attributing equal importance to all its features, including insurance benefits that are included in the product. Insurance benefits themselves should not, however, be included in the performance scenarios: it is not feasible to represent features as death benefits, work incapacity insurance or surviving dependants benefits in performance scenarios. Benefits of a PRIIP relating to biometric risks (death benefits, occupational disability, protection of dependants, etc.) should not be included in the performance scenarios but rather separately in a prominent manner.

It can be already noted that monetary amounts could potentially give the impression that the consumer is receiving personalised information rather than general pre-contractual product information disclosed on the product manufacturer's website.

Finally, the performance scenarios should be consistent with the information on costs included in the cost section of the KID so that none of the features of the PRIIP is accounted for twice.

The presentation of the performance scenarios' figures should be examined during the consumer testing exercise.

10: Are you aware of any practical issues that might arise with performance scenarios presented net of costs?

First of all, there should be a sharp distinction between costs and premiums. Premiums (ie. payments directly financing the benefits of a PRIIP) should never be considered as costs. It is important that the features of insurance-based investment products are taken into account appropriately. These products also include insurance benefits, such as capital guarantee, and benefits related to biometric risks such as death benefits, occupational disability income, surviving dependants provisions, etc. It is crucial that these are not considered as costs. It is a price retail investors pay to directly finance insurance benefits.

Moreover, it is of utmost importance that the performance scenarios are consistent with the information on costs included in the cost section of the KID so that none of the features of the PRIIP is accounted for twice.

If the performance scenarios are presented net of costs, it should be ensured that this is very clearly stated in the document and understood by retail investors.

11: Do you have any preferences in terms of the number or range of scenarios presented? Please explain.

It is not useful and would be misleading for retail investors if the same number of scenarios was required for all products. The correlation of risk and performance is essential: the number of scenarios should depend on the risk class of a PRIIP. As a rule, fewer (even one in some circumstances) scenarios could be sufficient for less risky PRIIPs whereas the higher the risk class of a PRIIP, the wider the range between the scenarios should be. The growth rates used, however, should not be different for each class since this would impede comparability.

It is important that an appropriate solution for the different objectives the KID is aiming to achieve is found (ie. comparability, legal certainty and helpful for retail investors). In addition, it should not be forgotten that the KID is limited to 3 pages.

In this context and in line with Solvency II requirements[7] and other legislation[8] as well as to ensure that the investor is not over-burdened with irrelevant information, the Regulatory Technical Standards (RTS) should not require the presentation of more than three scenarios in the KID. A disclaimer should be added to explain that none of these three scenarios involve a stronger likelihood of occurrence.

However, it should be possible to present more scenarios if the manufacturer considers these scenarios to be relevant to the retail investors and there is sufficient space on the document, for example in the case of products that include a specific pay-out mechanism that is activated under certain conditions.

12: Do you have any views, positive or negative, on the different examples for presentation of a summary risk indicator? Please outline advantages and disadvantages, and provide any other examples that you are aware of that you think would be useful.

The summary risk indicator should be:

- Balanced to allow a clear categorisation of the different products.
- Neutral as far as design and colours are concerned to avoid any negative visual connotations linked to the risk categories.

A visual element of the risks would be most beneficial to retail investors. Furthermore, since risk and reward as well as costs and performance are strongly correlated, a thorough consistent approach and a unifying presentation of these features are needed. Additionally, it is considered key to ensure that retail investors understand the trade-off between risk and reward (ie. the possible reward for taking on a risk).

A visualisation type similar to the UCITS KII synthetic risk and reward indicator on page 37 has all the above characteristics and would in addition allow for comparability with UCITS. It should be stressed that Insurance Europe supports the UCITS KII synthetic risk and reward indicator's presentation only, rather than the methodology behind it.

13: Do you have any views, positive or negative, on the different examples for presentation of performance scenarios? Please outline advantages and disadvantages, and provide any other examples that you are aware of that you think would be useful.

The performance visual element showing three scenarios in one graph would be the most useful presentation for investors as allowing clear comparison.

[7] Art. 185 of Solvency II states that where, in connection with an offer for or conclusion of a life insurance contract, the insurer provides figures relating to the amount of potential payments above and beyond the contractually agreed payments, the insurer shall provide the policy holder with a specimen calculation whereby the potential maturity payment is set out applying the basis for the premium calculation using *three different rates of interest.*

[8] Structured UCITS have to show at least three scenarios of the UCITS' potential performance. Appropriate scenarios have to be chosen to show the circumstances in which the formula may generate a low, a medium or a high return, including, where applicable, a negative return for the investor. The scenarios have to be based on reasonable and conservative assumptions about future market conditions and price movements.

Similarly to the summary risk indicator, it is of utmost importance to ensure that the presentation of the performance scenarios remains neutral as far as the design, the colours and any terms used are concerned to avoid any negative visual connotations.

Since risk and reward as well as costs and performance are strongly correlated, a thorough consistent approach and a unifying presentation of these features are needed.

Furthermore, retail investors should clearly be aware that an insurance-PRIIP proposes insurance benefits in addition to investment opportunities. Considering that the benefits related to biometrics risks are not included in the performance scenarios, they should be acknowledged and presented separately and prominently.

14: Do you have any views on possible combinations of a summary risk indicator with performance scenarios?

A single visual element for performance (all scenarios together) combined with a single visual element for risk (ie. 2B within Table 9 of the discussion paper) seems to be the most appropriate combination. Multiple visual risk elements are likely to be difficult to understand for retail investors.

As far as the layout is concerned, it is important that risk/reward indicator and performance are not presented on different pages.

4. What are the costs?

15: Do you agree with the description of the consumer´s perspective on costs expressed in the Key Questions?

First of all, capital guarantees should be covered in the performance and risk/reward section of the KID (more narrow spread between the scenarios, less risk). This is due to the fact that it is achieved by collective investment management, which is usually influenced by the corresponding legal provisions that enable insurance undertakings to design guarantees. For consistency reasons, the effect of capital protection on the risk/reward profile and performance scenarios should be consistently accounted for only once.

Similarly to the key questions related to retail investors' perspective on risk, the key questions on cost identified in the discussion paper in table 10 should not be disclosed as such in the KID. The only question related to the costs that should appear in the KID is "what are the costs?" as established by Article (8)(3)(f) the PRIIPs Regulation. It is important, therefore, that the questions correspond and do not go beyond the provisions of the PRIIPs Regulation. In this context, it is understood that these key questions have been identified to describe the consumer perspective rather than for the purpose of being disclosed as such in the KID.

In addition, it seems pertinent to reiterate here that the terms and wordings of the questions introduced by the PRIIPs Regulation for the headings of the KID already carry some negative connotations. The regulators must be cautious to ensure that, in this context, the rest of the structure and presentation of the KID do not lead to an overly negative document.

Regarding these key questions, Insurance Europe would like to stress that:

- Questions related to the "*uncertainty of costs*":
    - For the difference between actual costs and estimated costs, it should be noted that the actual costs will depend notably on the investor (ie. for instance the exact amount of fixed costs will depend on the duration that the retail investor chooses and on the

amounts the retail investor invests). In this context, it should not be required for these to be included in this section.

- Questions related to the "*comparability of costs"*:
  - The regulator must be wary of not creating a methodology which could impact the product design (adaptation of the cost structure of a product) to be able to apply the EU-methodology.
  - In addition, it seems quite inadequate to require a product manufacturer to disclose to investors how its products' costs compare to completely different products. The focus should be on the usability of the cost indicators to ensure that retail investors are well-informed to choose the right product for them. Rather, the information on costs should be tailored to the features of the products appropriately so that the cost indicators are useful for the retail investors and allow then to compare within a certain group of products.

16: What are the main challenges you see in achieving a level-playing field in cost disclosures, and how would you address them?

There are important challenges not only on achieving a level playing field in cost disclosure but also in the correct definition of the cost term for insurance-based investment products.

Another major challenge is that the information on individual costs is difficult to compare for retail investors and, therefore, does not enhance transparency. It is important to, therefore, apply a suitable, transparent, comprehensive and comparable cost indicator.

First of all, it should be sharply and clearly distinguished between costs and premiums. Premiums – that is payments that directly finance the benefits of a PRIIP (such as death benefits, occupational disability income, surviving dependants provisions, etc.)– should not be considered as costs.

Moreover, it is important that the features and insurance benefits of insurance-based investment products are taken into account appropriately and in a prominent way.

The following specific features of insurance-based investment products are crucial and should be taken into account:

- Capital guarantee through solvency requirements behind the insurance-based investment products should be covered in the performance and risk section of the KID (more narrow spread between the scenarios, less risk).

- Early redemption fees should not be treated as costs. These deductions are justified in accordance with actuarial principles and serve to protect the community of policyholders (e.g. against anti-selection). Then again, this issue should be better addressed in the section of the KID on surrender value.

Finally, there is a strong correlation between costs and performance of the PRIIP. An integrated presentation of both is, therefore, necessary for the retail investors to understand the link between the two.

There are many challenges in presenting costs at pre-contractual level as required by the PRIIPs Regulation:

- First of all, when developing a cost indicator, the regulator must be wary of not creating a methodology which could impact the product (adaptation of the cost structure of a product).

- At the pre-contractual stage, when the KID is produced by the manufacturer, the latter would typically not have any information about the amount the retail investor will invest. The KID should in theory provide useful and relevant information for investors, regardless of whether they invest €1000 or €100 000. This is very difficult as costs may vary depending on the initial investment or on the options chosen/activated during the lifetime of the contract. Some products may have a cost structure which will proportionally decrease costs when the amount invested increases.

- In addition, without knowing the initial investment, it would not be possible to give both monetary amounts and percentages of all future costs:
    - A manufacturer may know that it will be charging a 2% management fee every year, but what this 2% represents in € will depend on the amount invested.
    - Similarly, there might be a fixed €100 entry fee but it will be impossible to show this as a percentage of the investment before the amount of the investment is known.

- Furthermore, when the KID is drafted by the manufacturer, the manufacturer does not always know about the length or duration of the investment /contract: different durations may be available to retail investors. Costs may also vary depending on the duration of the investment.

- Some legal clarity is also needed on:
    - The type of costs to be disclosed - At this stage, it remains unclear what costs should be disclosed as the PRIIPs Regulation uses vague terms such as "indirect costs" and "direct costs".
    - How costs of a different nature are expected to be aggregated - There might be a fixed entry cost of €100 regardless of the amount invested, coupled with a fixed management fee of 0.5% per year and an early termination cost which can be either a fixed amount or a percentage of the investment value at the time of termination.

To solve most of these issues, different cost disclosure formats, assumptions and techniques should be used for products that have different specificities or that are targeted at different retail investors.

17: Do you agree with the outline of the main features of the cost structures for insurance-based investment products, structured products, CfDs and derivatives? Please describe any other costs or charges that should be included.

There are important challenges not only on achieving a level playing field in cost disclosure but also in the correct definition of the cost term for insurance-based investment products (see response to question 16). It is believed that the cost term and a balanced presentation of the costs and performance are crucial. The costs for the insurance sector presented in table 11 do not reflect adequately the specificities of the costs for insurance products:

- First, as already mentioned, insurance-based investments products include insurance benefits such as a capital guarantee, and benefits related to biometric risks - such as death benefits, occupational disability income, surviving dependants provisions, etc. - in parallel to the investment performance. In this context, it is important to ensure that the premium for the additional and parallel benefits is not considered as a cost. Premiums – that is payments that directly finance the benefits of a PRIIP (such as death benefits, occupational disability income, surviving dependants provisions, etc.)– should not be considered as costs.

- The costs for managing capital investments should also be included in the cost for unit-linked insurance products.

- The costs for managing the insurance cover are wrongly listed as investment related costs.

- Surcharges according to methods of regular payment chosen should not be considered as costs. They compensate the overestimated interest rates of prospective calculation. Since not all premiums are due at the beginning of the year, the interest yield for the entire year should be reduced.

18: Do you have any views on how implicit costs, for instance costs embedded within the price of a structured product, might be best estimated or calculated?

It is of utmost importance that a level playing field is ensured notably between PRIIPs and UCITS.

19: Do you agree with the costs and charges to be disclosed to investors as listed in table 12? If not please state your reasons, including describing any other cost or charges that should be included and the method of calculation.

It is important that an appropriate solution for the different objectives the KID is aiming to achieve is found (ie. comparability, legal certainty and helpful for retail investors).

It should be taken into account that retail investors are interested in what a product will cost them, not how these costs are constructed. It would be of no use for retail investors to receive such a break-down of costs as presented in Table 12. Should this be the case, this would not be an adequate and balanced trade-off between the PRIIPs Regulation aims of transparency and usefulness for retail investors.

In addition, it should not be forgotten that the KID is limited to three pages. As such, it is understood that these costs have been identified for the purpose of the consultation rather than for the purpose of being disclosed separately as such in the KID.

Only "entry and exit charges", "ongoing charges", and "any charges taken from the PRIIPs under certain specific conditions" should be disclosed in order to provide useful information to retail investors. It should already be noted, however, at this stage that it would not be feasible to include the latter in the cost indicator. As such, these costs should be presented separately.

The specificities of the insurance products should be duly taken into account particularly for the costs structure (e.g. long duration of the PRIIP). As such, a different KID template should be used for insurance-based investment products. This could be a solution to ensure that retail investors have all the elements to compare the different PRIIPs.

Early redemption fees should not be treated as costs. These deductions are justified in accordance with actuarial principles and serve to protect the community of policyholders (e.g. against adverse selection). This issue would be better addressed in the section of KID on surrender value. In Insurance Europe's view, it is important to inform retail investors about the possibility of early redemption or surrender value. Retails investors could be informed in a narrative way about these options in the KID.

20: Do you agree that a RIY or similar calculation method might be used for preparing 'total aggregate cost' figures?

The Reduction In Yield (RIY) is an appropriate way to disclose the aggregate costs figures. It should be taken into account, however, that this approach will not create a complete level-playing field with UCITS products that do not use RIY and that some fine-tuning or detailing may be necessary at national level.
The correct implementation of the approach, however, crucially depends on the appropriate definition of costs as described in question 16.

Furthermore, the costs are closely related to the performance of the PRIIP. Therefore, these should be presented in consistent way. It is important that the assumptions and the methods are consistent, so that the effect is not taken into account twice.

The ESAs should consider and duly take into consideration national differences and specificities.

21: Are you aware of any other calculation methodologies for costs that should be considered by the ESAs?

22: Do you agree that implicit or explicit growth rates should be assumed for the purpose of estimating 'total aggregate costs'? How might these be set, and should these assumptions be adjusted so as to be consistent with information included on the performance scenarios?

Since the costs are strongly correlated with the performance, a thorough consistent approach in relation to these features is needed (see responses to questions 14 and 20).

23: How do you think implicit portfolio transaction costs should be taken into account, bearing in mind also possible methods for assessing implicit costs for structured products?

These should be taken into account in the ongoing costs. Often these are included in the administration costs. Should this not be the case, assumptions will be needed.

24: Do you have any views on possible assumptions that should be made, and how these might be calibrated or set?

Given that the amount to be invested by the retail investor is not known at the time of developing the KID, it will be necessary to work with assumptions. Here again, however, several difficulties arise:

- To make the information provided relevant to the maximum number of retail investors, there would need to be a wide range of assumptions based both on the amount invested and on the duration of the investment. Multiplying assumptions might, however, make any table provided in the KID less readable and, therefore, less understandable to retail investors.

- It would also be difficult to set assumptions that would work for all products all over the European Union.
    - First of all, some products are not destined for short-term investment or there might be a threshold or a ceiling to the money invested. Artificially setting assumptions (eg: 1 – 10 – 20 years and 1000 – 10000 – 100 000€) and obliging manufacturers to use assumptions which do not fit their products would not, therefore, help retail investors get a good overview of costs.
    - The investors' profiles are very different from one market to the other and the average amount invested could be dramatically different from one member state to another.

The ESAs should, therefore, consider and duly take into consideration national differences and specificities.

25: What do you think are the key challenges in standardising the format of cost information across different PRIIPs, e.g. funds, derivatives, life insurance contracts?

It is important that an appropriate solution for the different objectives the KID is aiming to achieve is found (ie. comparability, legal certainty and helpful for retail investors).

The main challenge would be to find a similar format for products that have totally different cost specificities. It should be acknowledged that often these products are not substitutes and, therefore, the format should not necessarily be exactly the same. In addition, the methodology behind the cost disclosure will also represent an important challenge.

As pointed out in the table on pages 19 and 20, the information contained in KID should be comparable for different PRIIPs and its representation should be consistent, robust and stable. Since the insurance-based investment products have terms that sometimes last over decades, only annualised costs could achieve the above mentioned qualities of a cost representation. This becomes particularly obvious if products that have a term of three months are compared with products that have duration of 30 years. The representation of annualised costs together with a reduction in yield approach is, therefore, the most appropriate method for the cost representation, which is also very useful and understandable for the retail investors.

26: Do you have a marked preference or any objection for any of the presentational examples? If so, why? Please provide any alternative examples which you believe could be useful.

The correct implementation of the approach crucially depends on the appropriate definition of the costs (as described in question 16). Another major challenge is that the information on individual costs is difficult to compare for retail investors and, therefore, does not enhance transparency. Consequently, it is important to apply a suitable, transparent, comprehensive and comparable cost indicator.

It is believed that option five could be a good starting point should it present the total cost in monetary terms per year (annual average) rather than for the whole investment period. Indeed the specificities of the insurance-based investment products (ie. very long duration) should be duly taken into account. Insurance Europe agrees with the discussion paper when it reads: "not all PRIIPs will have the same holding period, which may reduce comparability" (page 62). As such, an option presenting the total costs for the whole investment period would not allow for an effective comparison between, for example, a product with a few months investment period and one characterised by a 35 years investment period.

Taking duly note of the above point, option five seems simple and precise as well as in line with the PRIIPs Regulation (ie. split between entry, ongoing and exit).

It is important that an appropriate solution for the different objectives the KID is aiming to achieve is found (ie. comparability, legal certainty and helpful for retail investors). The most consumer-friendly approach to address this issue in practice could be examined during the consumer testing exercise.

Finally, costs and performance scenarios are strongly correlated. A thorough consistent approach and a unifying presentation of these features are needed (see response to question 14).

27: In terms of a possible breakdown of costs, are you aware of cost structures for which a split between entry or exit costs, ongoing costs, and costs only paid in specific situations or under specific conditions, would not work?

The question arises whether the extensive information on all individual costs will enable retail investors to compare different costs.

28: How do you think contingent costs should be addressed when showing total aggregated costs?

It is important that it is taken into account that the costs surpluses of the manufacturer can be deduced from the costs. Furthermore, for reasons of feasibility, the costs that only occur in certain scenarios should be presented separately and not be reflected by the cost indicator. Costs that typically incur, but the nominal value of which is not known upfront, should, however, be integrated in the cost indicator as a best estimate.

Contingent costs are only paid in specific situations or under specific conditions and should, therefore, not be included in the total aggregated costs.

29: How do you think should cumulative costs be shown?

As the ESAs rightly point out in the table on pages 19 and 20, the information contained in KID should be comparable for different PRIIPs and its representation should be consistent robust and stable. Since the insurance-based investment products have terms that sometimes last over decades, only annualised costs could achieve the above mentioned qualities of a cost representation. This becomes particularly obvious if products that have a term of three months are compared with products that have duration of 30 years.

The representation of annualised costs (yearly average of total costs) together with a reduction in yield approach is, therefore, the most appropriate method for the cost representation, which is also very useful and understandable for the retail investors.

The most consumer-friendly approach to present the cumulative costs in practice could be examined during the consumer testing exercise.

5. Other Sections of the KID

30: Do you have any views on the identity information that should be included?

The identity information should remain concise and simple to ensure that retail investors are provided with helpful information. It should not be forgotten that the KID is limited to three pages. It is also key to ensure consistency with IMD2.

Standardised information on the PRIIP manufacturer's contact details (including a webpage and a postal address) and on competent authorities would be relevant to retail investors whilst reaching the objective of the KID to ensure that the information provided is brief and appropriate.

In addition, the date at which the KID was developed should be referenced in addition to a disclaimer stating that it has been developed according to European standards and under the authority of the national/European authority.

31: Do you consider that the criteria set out in recital 18 are sufficiently clear, or would you see some merit in ESAs clarifying them further?

The comprehension alert would lose its value and would not help retail investors if it was used for a wide range of products including some that should not fall under its scope. At this stage, the criteria set out in recital 18 do not provide for complete legal certainty as to which products' KIDs should bear such a comprehension alert. There may be, therefore, a risk that some PRIIPs manufacturers face a situation where they choose to disclose the comprehension alert although their products should not bear it.

32: Do you agree that principles on how a PRIIP might be assigned a 'type' will be needed, and do you have views on how these might be set?

A classification according to the legal type seems to be appropriate.

33: Are you aware of classifications other than by legal type that you think should be considered?

34: Do you agree that general principles and as necessary prescribed statements might be needed for completing this section of the KID?

It is important to keep in mind that the document must remain concise (limited to three pages) to ensure that the information remains helpful for retail investors. The information already foreseen in the PRIIPs Regulation will already take some space.

The description of the objectives and means of achieving them should take into account the specificities of the different types of insurance-based investment products. For insurance–based investment products it should be possible to mention the interest rate that is guaranteed and the possibility to benefit from profit sharing (if applicable).

35: Are you aware of other measures that might be taken to improve the quality of the section from the perspective of the retail investor?

It is important to keep in mind that the document must remain concise (limited to three pages) to ensure that the information remains helpful for retail investors. The information already foreseen in the PRIIPs Regulation will already take some space.

The description of the objectives and means of achieving them should take into account the specificities of the different types of insurance-based investment products. For insurance-based investment products it should be possible to mention the interest rate that is guaranteed and the possibility to benefit from profit sharing (if applicable).

36: Do you have views on the information PRIIPs manufacturers should provide on consumer types?

It is important that an appropriate solution for the different objectives the KID is aiming to achieve is found (ie. comparability, legal certainty and helpful for retail investors).

This section should also take into account the specificities of the different types of insurance-based investment products. It is important that retail investors receive products that suit their need for insurance protection.

The provisions should not be too narrow or too specific so that the types could encompass the maximum useful number of retail investors. It is important that retail investors receive products that suit their individual needs: especially the risk and reward of a PRIIP should correspond to the risk and reward preference of a retail investor. For any further assessment of retail investor's needs, a personal advice is indispensable. This is, however, out of scope of the PRIIPs Regulation and is subject to a different legislation, e.g. IMD2.

In addition, due to their specificities (e.g. several investment options in case of unit-linked products, with-profit participation, guaranteed minimum return) insurance-based investment products usually are open to all categories of investors or can be a part of the overall asset allocation of any client.

Apart from the above, care should be taken to:

- Ensure that the rules set in the RTS should not contradict any other regulatory initiatives, such as the ESA's work on product oversight and governance.
- Not take over the role of the advisor in giving advice to an individual consumer taking into account for instance his ability to bear investment loss.

The aim of the product (ie. capital building for instance) could be provided.

37: What is the key information that needs to be given to the retail investor on insurance benefits, and how should this be presented?

Insurance-based investment products have *per se* an insurance component.

A KID should be understandable to retail investors. It is crucial that retail investors are informed that, in addition to offering an investment opportunity, an insurance PRIIP (unlike other PRIIPs) provides for additional protection such as capital guarantee and protection against biometric risks (such as death benefits, occupational disability income, surviving dependants provisions, etc.).

There are several elements that make insurance PRIIPs unique in comparison to other PRIIPs and that are very relevant in any comparison, such as the existence of insurance benefits (death benefit, disability cover, etc) but also the long duration, the possibility to appoint a beneficiary, etc.

It is, therefore, of utmost importance that they are presented in a prominent manner in the KID, ensuring that the total picture of a PRIIP is balanced. The presentation of insurance related benefits should not fall short in the KID.

Furthermore, to ensure comparison between different PRIIPs, it is of utmost importance that it is clearly stated in the KID whether or not an insurance cover is actually provided. This should be framed in such a way as to enable an affirmative (or negative) statement over the inclusion of insurance cover, so as to allow retail investors to make a fully informed comparison.

Finally, it should be clear that the insurance-based investment product is able to guarantee insurance commitments thanks to a solvency capital.

38: Are you aware of PRIIPs where the term may not be readily described, or where there are other issues?

39: Are you aware of specific challenges arising for specific PRIIPs in completing this section (manufacturer unable to pay-out)?

40: Are you aware of specific challenges arising for specific PRIIPs in completing this section (surrender options, exit arrangements)?

Retail investors should be informed that, in addition to offering an investment opportunity, an insurance PRIIP (unlike other PRIIPs) provides for additional protection such as capital guarantee and protection against biometric risks (such as death benefits, occupational disability income, surviving dependants provisions, etc.). It is of utmost importance that they are presented in a prominent manner in the KID, ensuring that the total picture of a PRIIP is balanced. The presentation of insurance related benefits should not fall short in the KID.

41: Are you aware of specific challenges arising for specific PRIIPs in completing this section (how to complain)?

The manufacturer could include its policy and procedures regarding complaints on its website and indicate that this is the case to the consumer at the pre-contractual stage.

42: Do you agree that this section should link to a webpage of the manufacturer?

A link to a webpage of the manufacturer should appear in this section. In the case where the insurer does not have a website, it should be possible to add the contact details of the distributor.

6. Products offering many options

43: Do you agree with the assessment of when PRIIPs might be concerned by article 6(3)?

Yes, the ESAs have identified the right criteria for products offering many options.

Apart from the hybrid and unit-linked insurance products, products with options could also be concerned by article 6(3), e.g. index-based products, where retail investors may choose every year between index participation or a fixed interest rate.

44: In your market, taking into account the list of criteria in the above section, what products would be concerned by article 6(2a)? What market share do these represent?

45: Please provide sufficient information about these products to illustrate why they would be concerned?

Depending on the market, there could be between a few and thousands of funds to choose from.

In addition to funds, also other possible investment objects should be mentioned. Many unit-linked insurance products offer currently the possibility to invest in different kind of investments, not only UCITS funds. These other underlying investments might be shares, bonds, structured products, almost any kind of object in value (if not restricted in national legislation).

Other products might offer the retail investor with a yearly choice between index participation and a fixed interest (for one year).

46: Do you have views on how you think the KID should be adapted for article 6(3) products, taking into account the options outlined by the ESAs?

It is of utmost importance that a level playing field is ensured between different types of PRIIPs. Retail investors should get a fair view of the insurance product (regardless of the number of investment options it provides) notably to ensure comparability.

47: How do you consider that the product manufacturer should meet the requirements to describe and detail the investment options available?

48: Are you aware of further challenges that should be taken into account?

7. Review, Revision and Republication

49: Do you agree with the measures outlined for periodic review, revision and republication of the KID where 'material' changes are found?

50: Where a PRIIP is being sold or traded on a secondary market, do you foresee particular challenges in keeping the KID up-to-date?

51: Where a PRIIP is offering a wide range of investment options, do you foresee any particular challenges in keeping the KID up-to-date?

Yes, in order to update the KID, all the information on the investment options needs to be updated. It is important, however, that the procedures and timelines set to ensure that KIDs are up to date are not disproportionately burdensome.

52: Are there circumstances where an active communication model should be provided?

Manufacturers should make public their new KIDs on their websites. No other communication model presented in the discussion paper seems adequate and/or balanced. Since the KID is provided at the pre-contractual stage and is not personalised, an active communication model about a new/changed KID is not feasible. Moreover, other regulations already ensure the provision of on-going information for retail investors.

8. Timing of delivery

53: Do you agree that Recital 83 of the MiFID II might be used as a model for technical standards on the timing of the delivery of the KID?

The KID is not a personalised document. In this context, additional technical standards on the timing of the delivery of the KID are not seen as appropriate.

54: Are you aware of any other criteria or details that might be taken into account?

9. General aspects of the KID

55: Do you think that the ESAs should aim to develop one or more overall templates for the KID?

It is important that an appropriate solution for the different objectives the KID is aiming to achieve is found (ie comparability, legal certainty and helpfulness for retail investors).

It is, therefore, necessary that different templates are used for different types of PRIIPs. A classification according to the legal form of the contract or instrument seems to be appropriate. It is important that the KID only includes information which is relevant for the specific product. For example, the information should be tailored to the features of insurance-based product. An even finer distinction between different products might, therefore, be appropriate. For example, whether a payment is due now or in 30 years significantly impacts the costs and benefits.

56: Do you think the KID should be adjusted to reflect the impact of regular payment options (on costs, performance, risk) where these are offered? If so, how?

For insurance-based investment products, all methods of pay-in options are equally important and a default method should not be set.

The different pay-out options should be explained in the section on pay-out options. This can be done narratively.

57: Are there other cost or benefit drivers that you are aware of that have not been mentioned? Please consider both one-off and ongoing costs.

58: Do you have any evidence on the specific costs or benefits that might be linked to the options already explored earlier in this Discussion Paper? Please provide specific information or references broken down by the specific options on which you wish to comment.

59: Are you aware of situations in which costs might be disproportionate for particular options, for instance borne by a specific group of manufacturers to a far greater degree in terms relative to the turnover of that group of manufacturers, compared to other manufacturers?

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