

## Insurance Europe's input to REFIT

### ISSUE 1 – Information overload including information duplication (PRIIPs, SII, IDD, GDPR)

#### 1. European legislation at stake

This example refers to:

- [Solvency II Directive 2009/138](#) and particularly Article 185 (information for policyholders) under subsection 2 (life insurance) (**Solvency II**)
- [Insurance Distribution Directive](#) (IDD), including Article 18 (general information provided by the insurance intermediary or insurance undertaking), Article 19 (conflict of interest and transparency), Article 20 (advice, standards for sales where no advice is given), Article 23 (information conditions), Article 24 (cross-selling), Article 28 (conflicts of interest), Article 29 (information to customers) and Article 30 (assessment of suitability and appropriateness and reporting to customers) (**IDD**)
- [PRIIPs Regulation 1286/2014](#) and particularly Articles 3, 8 and 14 (**PRIIPs Regulation**)
- [General Data Protection Regulation 2016/679](#) and particularly Article 13 (**GDPR**)
- [e-Commerce Directive 2000/31](#) and particularly Article 5 (general information to be provided) and Article 10 (Information to be provided)
- [Distance marketing Directive 2002/65](#) and particularly Article 3 (information to the consumer prior to the conclusion of the distance contract)

#### 2. Issue of concern

Insurance Europe supports effective EU consumer protection rules that enable individuals to compare products and make informed decisions. To this end, the information provided to consumers must be relevant, clear and to the point.

On the contrary, the disclosure of too much information to consumers is counterproductive and has the effect of hampering their ability to make appropriate decisions when comparing and purchasing products. Overloading consumers with information simply confuses them, leading to ill-informed decisions and potentially, when a claim comes, unhappy consumers.

Regrettably, several pieces of EU legislation, applicable to insurance, have recently been developed and adopted by the European regulators in silos. The introduction of these rules on top of existing legislation will dramatically increase the amount of pre-contractual information that insurers will be required to provide consumers with. As a result, consumers risk being overloaded with information that potentially provides very limited benefit to them when choosing insurance products. This, in turn, risks confusing and distracting them from paying attention to important information, such as the insurance coverage and exclusions.

In addition, not enough attention has been paid to the combined effects and potential unintended consequences of these rules. This results in numerous duplicative requirements under EU legislation regarding the information that needs to be disclosed to insurance consumers. In practice, it means that consumers risk receiving the same type of information twice, but with different wording and a different format. Each proposal was developed on its own, without enough attention being paid to the effect of the rules when they are combined. This is a problem because many insurance sales processes require many different rules to be applied at once. Consequently, this may have a negative impact on consumers' understanding of a product's features. Such an approach could, in turn, hamper consumers' ability to compare products effectively and to shop around to find the best product that meets their needs. It risks ultimately undermining their confidence in the products and industry concerned.

Furthermore, the PRIIPs and IDD rules are outdated even before they come into force, because they do not take account of the fact that many people now buy insurance online.

### 3. Additional evidence

Insurance Europe is and has always been supportive of a high level of transparency and has always emphasised that pre-contractual information should be useful and relevant.

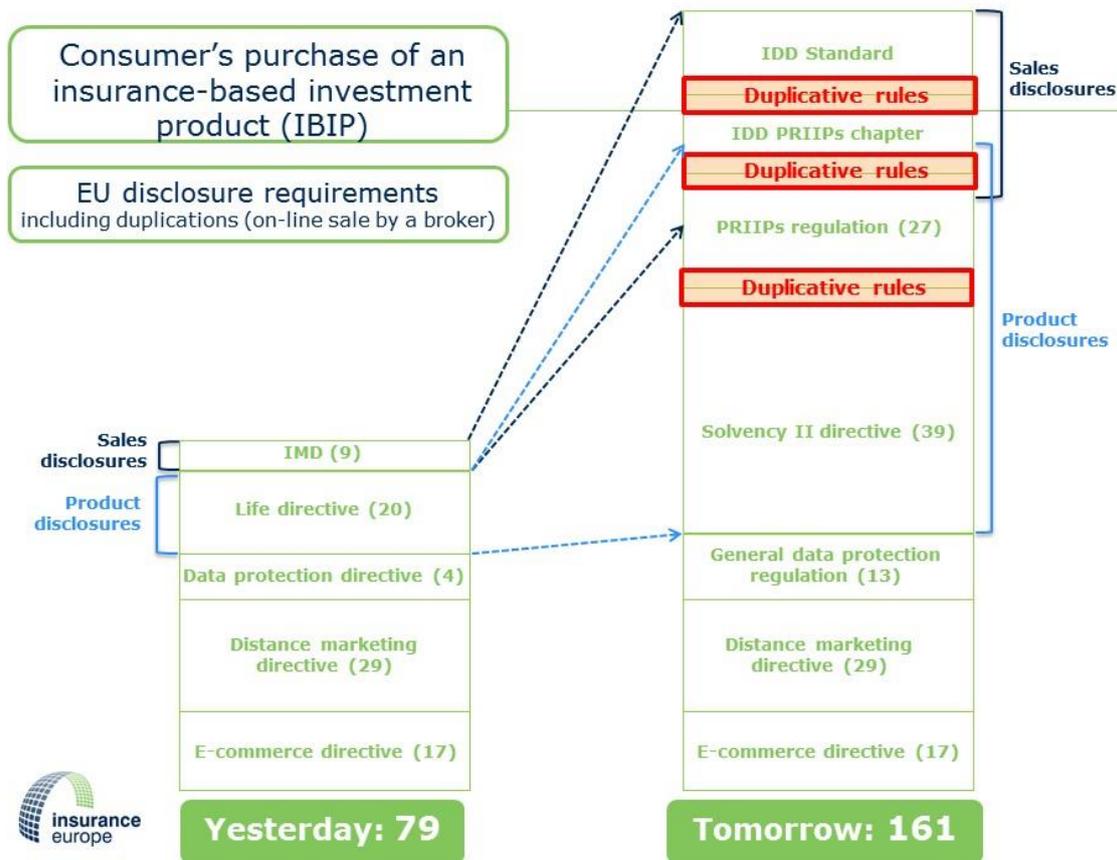
When looking, for example, at the rules that will be applicable to the sale of insurance-based investment products, it becomes clear that (1) the cumulative effect of the legislation on the disclosure of pre-contractual information and (2) the interaction between all disclosures (including potential duplications) have never been properly assessed by policymakers.

As far as the cumulative effect is concerned and until recently, 79 different pieces of pre-contractual information were applicable under existing EU legislation to the case of a consumer purchasing an insurance-based investment product online from an intermediary<sup>1</sup>. With the new PRIIPs Regulation, the Solvency II Directive, the GDPR and the IDD, this will increase to 161 different pieces of pre-contractual information<sup>2</sup>. When broken down into its component parts, the number of pre-contractual product disclosures will increase from 20 under the Life Directive, to 66 under the Solvency II Directive and the PRIIPs Regulation, or 330% of what it used to be, while the disclosure requirements for sales rules would rise from 9 under IMD 1 to 36 under IDD, or 400% of previous levels.

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<sup>1</sup> This analysis takes into account the following European legislative acts: [life Directive 2002/83](#); [insurance intermediation Directive 2002/92](#); [Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data](#); [e-commerce Directive 2000/31](#); and [distance marketing Directive 2002/65](#)

<sup>2</sup> This analysis takes into account the following European legislative acts: [Solvency II Directive](#); [Insurance Distribution Directive 2016/97](#); [PRIIPs Regulation 1286/2014](#); [General Data Protection Regulation 2016/679](#); [e-commerce Directive 2000/31](#); and [distance marketing Directive 2002/65](#)



In addition, some of that information will be duplication, meaning that not only will consumers be overloaded, they will also be given the same type of information twice, but with different wordings and in different formats (see submission on duplicative rules).

Indeed, Solvency II and the PRIIPs Regulation require the cumulative disclosure of fully or partially equivalent information to consumers, as per Article 3 of the PRIIPs Regulation. Fully equivalent information that needs to be provided under Solvency II and the PRIIPs Regulation includes the insurer's identity, the duration of the contract, the description of the underlying instruments, the description of the surrender/cooling-off periods, the risks and the existence and details of procedures for complaints. In addition, partially equivalent information also needs to be provided, including the product benefits, the costs/payment and the tax arrangements.

Consumer's purchase of an insurance-based investment product (IBIP)

### Duplicative disclosures

The PRIIPs Regulation contains general pre-contractual information requirements for the sale of IBIPs. The Solvency II Directive also contains pre-contractual information requirements for all insurance products, which means that the PRIIPs Regulation duplicates the requirements already contained in Solvency II.

Duplication requirements	Solvency II		PRIIPs
Insurer's identity	Article 185.2 (a) "the name of the undertaking"		Article 8.3 (a) c. "the identity and contact details of the PRIIP manufacturer"
Description of the underlying instruments	Article 185.3 (i) "an indication of the nature of the underlying assets for unit-linked policies"		Article 8(3)(c)(ii) "a description of the underlying instruments or reference values, including a specification of the markets the PRIIP invests in"
Duration of the contract	Article 185.3 (b) "the term of the contract"		Article 8(3)(c)(v) "the term of the PRIIP, if known"
Out-of-court claims settlement procedures and/ or complaints mechanisms	Article 185.3 (l) "the arrangements for handling complaints concerning contracts by policy holders, lives assured or beneficiaries under contracts including, where appropriate, the existence of a complaint body, without prejudice to the right to take legal proceedings"		Article 8(3)(h) "information about how and to whom a retail investor can make a complaint about the product or the conduct of the PRIIP manufacturer or a person advising on, or selling, the product"
Product benefits	Article 185.3 (a) "the definition of each benefits and each options"		Article 8(3)(c)(iv) "Where the PRIIPs offers insurance benefits, details of those insurance benefits, including the circumstances that would trigger them"
Payment/ Costs	Article 185.3 (d) "the means of payment of premiums and duration of payments"		Article 8(3)(f) "the costs associated with an investment in the PRIIP"
Surrender / cooling-off period	Article 185.3 (f) "an indication of the surrender and paid-up values and the extent to which they are guaranteed" Article 185.3 (j) "arrangements for application of the cooling-off period"		Article 8(3)(g)(i) "where applicable, whether there is a cooling off period or cancellation period for the PRIIP"
Tax arrangements	Article 185.3 (k) "general information on the tax arrangements applicable to the type of policy"		Article 8(3)(d)(v) "a statement that the tax legislation of the retail investor's home Member State may have an impact on the actual payout"
Risks	Article 185.4 "information shall be supplied in order to provide a proper understanding of the risks underlying the contract"		Article 8(3)(d) "a brief description of the risk-reward profile"

Another example illustrating such duplication of equivalent requirements under different pieces of legislation is related to the disclosure of a product's costs under Article 29 of the IDD, as well as under Article 8 of the PRIIPs Regulation.

#### 4. Suggestions for improvement.

Excessively burdensome and prescriptive rules on product disclosure should be avoided. Insurance Europe calls on the EC to consider the cumulative impact of the potential information overload and duplicative disclosures on consumers and take steps to remove them where they exist.

In practice, we suggest:

- As regards the overlap between Solvency II and the PRIIPs Regulation, we suggest that the Key Information Document (KID) should also satisfy the duplicative disclosure requirements under Solvency II. Consumers would benefit from receiving relevant information only once through the KID, instead of disclosing it a second time to consumers, in a different format, under Solvency II, which would do nothing else than confuse consumers.

- To ensure that, in the future, consumer protection rules actually achieve their aims, policymakers should focus on the real – rather than imagined – needs of consumers. The EU regulatory framework needs to be truly consumer-centric and allow insurers to satisfy the need of their consumers in the best way possible. Therefore, Insurance Europe suggests that any proposal – be it at Level 1, 2 or 3 – passes through a series of checks to make sure that it actually benefits consumers. These checks should *inter alia* include assessing the impact on consumers of the proposal when it is combined with other existing or proposed rules. If this assessment had been carried out thoroughly for the PRIIPs Regulation or the IDD, the Commission would have been able to prevent information overload and duplication before putting forward its proposals.
- Policymakers should leave the necessary time for the adopted legislation to be implemented and for its impacts to be comprehensively assessed and measured, before considering new rules in the same field. In this context, Insurance Europe believes that the EC request to the ESAs to work on the transparency of fees and net performance of long-term retail and pension products as well as the launch of a study on the distribution systems of retail investment products across the EU in the framework of the CMU mid-term review, should not have been undertaken before the implementation of rules that are still under discussion under PRIIPs and IDD.

## Consumer-centric insurance regulation

### Level 1, Level 2 and Level 3



## ISSUE 2 – Paper requirements for information provision

### 1. European legislation at stake

This example refers to:

- Article 23 of the [Insurance Distribution Directive \(Directive \(EU\) 2016/97\)](#) (**IDD**)
- Article 14 of the [PRIIPs Regulation 1286/2014](#) (**PRIIPs Regulation**)

### 2. Issue of concern

The latest EU consumer protection rules in the field of insurance oblige insurers to provide pre-contractual information on paper, as a default requirement. Since many consumers now like to buy insurance online, where they expect the process to be simple and fast; this – coupled with the overload of information – could cause a real problem and lead to unhappy consumers as well as unnecessary increase in costs stemming from a requirement to develop consumer information also on paper. Therefore, consumer protection rules must reflect the evolving demands of consumers and keep up with the technological developments that consumers want to use. To achieve this, policymakers should focus on the real – rather than imagined – needs of consumers in the digital age. The current rules should respond to the increasing demand for and use of online services.

The Insurance Distribution Directive (IDD) contains the relevant conditions that must be followed for the provision of information regarding the distribution of all insurance products (Article 23). The primary condition that must be met under this article is that all information must be provided to consumers in paper form. While it is crucial that consumers receive all the necessary information in order to compare products and make informed decisions, imposing such a requirement not only impacts on the ability of the rules to respond to increasingly digital-based services (and thus to be future-proofed), but it also runs counter to the Commission’s objectives to promote and bolster a robust digital economy.

The PRIIPs Regulation also sets out requirements for the provision of the key information document on paper whereas the use of websites and durable mediums can only be used by way of derogation (Article 14). Such rule could be further enhanced in order to better respond to increasingly digital-based services.

### 3. Additional evidence

Article 23 of the IDD contains the relevant conditions that must be followed for the provision of information regarding the distribution of all insurance products. The issue, however, is that the information conditions as set out in this article fail to adequately capture the growing digital trend and the provision of information in a paperless electronic and responsive form. All information is required to be given to the consumer “on paper” (Article 23(1)(a)), and is only allowed to be provided in another medium, such as on a website or other digital format, “by way of derogation” or exception from this paper requirement (Article 23(2)), subject to certain conditions being satisfied (Article 23(4) and 23(5)).

The introduction of such a mandatory default paper requirement is not reflective of a consumer-friendly approach and is something that will actually inhibit digitalisation and prevent the further development of the internet as a distribution channel, at a time when the benefits of a digital society are repeatedly being focused on, including by the European Commission with its Digital Single Market Strategy. The logical approach would surely be to allow consumers the choice to decide for themselves in which format they wish to receive the information, particularly when considering the volume of paper that would need to be provided.

Article 14 of the PRIIPs Regulation also provides that paper should be the default option for the provision of the key information document where the PRIIP is offered on a face-to-face basis. It also imposes specific additional

conditions for the provision of information in a durable medium other than paper (Article 14(4)) and by means of a website (Article 14(5)).

#### 4. Suggestions for improvement

A mandatory default paper requirement should be removed from IDD and the PRIIPs Regulation, and replaced with a clear possibility for consumers to choose in which format they wish to receive the information. This would better facilitate the move towards digitalisation and allow consumers control over the manner in which they access information.

In addition, a layered approach to contractual information should also be considered so that disclosure is kept to a short as well as to a more easily readable format for consumers. Consumers will benefit from receiving succinct information on the key features of each product, with the possibility to easily access more detailed information if, and when, they so choose. This is compatible with the digitalisation of insurance distribution and the presentation of disclosures in a digital-friendly format, allowing consumers to click-through on relevant sections and obtain further information online.

To ensure that, in the future, consumer protection rules actually achieve their aims, policymakers should focus on the real – rather than presumed – needs of consumers. The EU regulatory framework needs to be truly consumer-centric and allow insurers to satisfy their consumers' needs in the best way possible. Therefore, Insurance Europe suggests that any proposal – be it at Level 1, 2 or 3 – passes through a series of checks to make sure that it actually benefits consumers. These checks should *inter alia* include ensuring that the proposal is future- and tech-proof. This would ensure that legislation is not out-dated in an era of digitalisation.

Any new legislation, rules or guidelines that govern the distribution of insurance products to consumers should:

- be digital-friendly and appropriately designed, so as to allow both consumers and industry to benefit from the opportunities digitalisation offers; and
- be technologically neutral and sufficiently future-proof to be fit for the digital age

## Consumer-centric insurance regulation

### Level 1, Level 2 and Level 3



### About Insurance Europe

Insurance Europe is the European insurance and reinsurance federation. Through its 35 member bodies, the national insurance associations, Insurance Europe represents all types of insurance and reinsurance undertakings, eg pan-European companies, monoliners, mutuals and SMEs.

Insurance Europe, which is based in Brussels, represents undertakings that account for around 95% of total European premium income. Insurance makes a major contribution to Europe's economic growth and development. European insurers generate premium income of €1 200bn, directly employ over 985 000 people and invest nearly €9 900bn in the economy.

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