

European Commission consultation on legislative steps for the Packaged Retail Investment Products (PRIIPs) initiative

Responses of National Associations

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Public consultation by the Commission Services on legislative steps for the Packaged Retail Investment Products initiative

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Vienna, 28 January 2011

The response of the Austrian Insurance Association (VVO)

1. About VVO

Founded in 1899, the Austrian Insurance Association (Versicherungsverband Österreich, VVO) is the legal interest representation of all private insurers in Austria, promoting the views of its members on national, European and international level. The VVO is a founding member of the European Insurance and Reinsurance Federation (Comité Européen des Assurances, CEA).

Today Austrian insurance groups are serving around 30 million customers in more than 30 countries.

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2. Introductory remarks

The Austrian Insurance Association (VVO) welcomes the opportunity to comment on the legislative steps for the Packaged Retail Investment Products initiative. Our comments should be seen in combination with the VVO's forthcoming response on the consultation on the review of the Insurance Mediation Directive (IMD).¹

3. Scope (Q 1 - 14)

The PRIPs initiative aims at covering a significant diversity of products originating from the securities, banking and insurance sector. While the VVO fully understands the general objective of retail investor protection, we do have serious concerns addressing Austrian (life) insurance products in the context of the PRIPs initiative. Considering that the PRIPs initiative wants to enable comparability between retail investment products, this would be difficult to achieve if the scope is widened too broadly.

¹ cf. Consultation document on the Review of the Insurance Mediation Directive (IMD), Commission Staff Working Paper, 26 November 2010



Austrian (life) insurance products in particular differ significantly from securities or banking products in terms of functionality and contract duration:

- **Functionality:**
Austrian life insurance products, including unit-linked life insurance, cover biometric risks.²
- **Contract duration:**
Only recently, in December 2010, the Austrian legislator extended the minimum duration for the regular fiscal treatment of single premium life insurance contracts from 10 to 15 years.³

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As the risks and benefits of retail investment products can't be reasonably compared to Austrian (life) insurance products, the latter should be excluded from the scope of the PRIPs initiative.

3.1 The PRIPs definition - a constant change

Since 2007 the Commission Services proposed four different definitions⁴ for PRIPs, initially called “substitute retail investment products”. Due to this constant change it is difficult to assess whether Austrian (life) insurance products would be subject to a legislative initiative for PRIPs or not.

However, the VVO agrees with the 3L3 Task Force that a definition of PRIPs should exclude “life insurance policies, where the exact amount payable to the beneficiaries in case of death, survival or withdrawal is predetermined and fixed in the contract.”⁵

In addition the VVO supports the Commission Services' consideration to exclude pensions and annuitized products as they serve the specific purpose of retirement planning by regular, lifelong streams of payment. Consequently these product groups should not be regarded as mere retail investment products. Furthermore the legislative steps for the PRIPs initiative should not pre-judge the future work following the European Commission's Green Paper on Pensions.⁶

² cf. Circular by the Austrian Financial Market Authority (FMA) from 12 December 2006, GZ FMA-VU000.400/0002-VPM/2006

³ cf. Austrian Federal Law Gazette I No. 111/2010 (“Budgetbegleitgesetz 2011”)

⁴ cf. Call for evidence, Need for a coherent approach to product transparency and distribution requirements for “substitute” retail investment products, European Commission, DG MARKT G-4, 26 October 2007, p. 9 and Communication from the Commission to the European Parliament and the Council, Packaged Retail Investment Products COM(2009) 204, 29 April 2009, p. 3 and Update on Commission Work on Packaged Retail Investment Products, 16 December 2009, p. 6 and Consultation by Commission Services on legislative steps for the Packaged Retail Investment Products initiative, 26 November 2010, p. 6

⁵ cf. Report of the 3L3 Task Force on Packaged Retail Investment Products (PRIPs), CEIOPS-3L3-54-10, 6 October 2010, p. 12

⁶ cf. Green Paper towards adequate, sustainable and safe European pension systems, COM(2010)365 final



3.2 Harmonised and non-harmonised products

In contrast to harmonised retail investment products like UCITS, insurance products are subject to the freedom of product design.⁷ As a result, the same notion of a certain insurance product e.g. a unit-linked life insurance may denote functionally differing insurance products in different markets. Therefore there can't be a notion-oriented approach to the question whether a product should be considered to be a PRIP.

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A European indicative (white or black) list would fail to address objective differences in existing product designs as well as future product innovation. Against the background of considerably varying product designs across Member States it has to be left to the discretion of Member States to identify which products meet the economic definition of a PRIP.

4. Legislative approach to be taken in delivering the PRIPs regime

The VVO underlines the importance of a coherent, sector-specific legislation. Submitting selected insurance products to a different regulatory regime would lead to a regulatory patchwork within the insurance sector resulting in higher information complexity and confusion of the consumer and increased distribution costs that would ultimately be borne by policyholders.

The VVO does not support any splitting of (European) insurance legislation. As a consequence European information requirements for insurance products should be either part of Directive 2009/138/EC (Solvency II) or Directive 2002/92/EC (IMD).⁸

The VVO would like to draw the European Commission's attention to already existing transparency measures on national level going beyond the European level such as the minimum standards for information requirements in the life assurance sector issued by the Austrian Financial Market Authority (FMA) (please see Annex I). National transparency measures should neither be duplicated nor foiled on European level.

5. A new pre-contractual product disclosure instrument (Q 17 - 43)

The insurance industry plays a significant role in the intermediation of retail investment products by providing professional indemnity insurance (PII). The civil liability of financial services intermediaries should be assessed against the full documentation and not only the KIID.

⁷ cf. Article 21 of Directive 2009/138/EC on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II)

⁸ cf. Directive 2009/138/EC on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) and Directive 2002/92/EC on insurance mediation.



The VVO remains at your disposal to further discuss the matter of retail investor protection.

Best regards,

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Austrian Insurance Association (VVO)

Annex I: The Austrian minimum standards for information requirements in the life assurance sector.



Insurance and Pension Company Supervision DEPARTMENT

FMA Minimum Standards for Information Requirements in the Life Assurance Sector

22 October 2008

1 April 2009

(Version from 22 October 2008 supplemented by
information requirements for investment-oriented life assurance)

The Financial Market Authority (FMA) considers it essential that parties interested in life assurance products are comprehensively informed prior to the conclusion of a contract. It is necessary that the interested party is provided with complete, correct and intelligible information in writing prior to his contract declaration, so that he as a responsible consumer can decide which insurance product is the best and comes closest to his needs.

In order to increase the transparency of life assurance products, the FMA presents Minimum Standards structured as follows:

- I. Information requirements for all types of benefits
- II. Information requirements for traditional life assurance
- III. Information requirements for investment-oriented life assurance
- IV. Information requirements for unit-linked and index-linked life assurance
- V. Additional information requirements for state-sponsored retirement provision

These FMA Minimum Standards for Information Requirements in the Life Assurance Sector represent recommendations. No rights or obligations going beyond those defined in statutory provisions may be deduced from these Minimum Standards. With reference to Article 9a, Article 18b and Article 75 of the *Versicherungsaufsichtsgesetz* (VAG; Insurance Supervision Act), the FMA expects adherence to these FMA Minimum Standards.

Even if the insurance is sold by external intermediaries, the insurance undertaking shall ensure that the (potential) policyholders receive said information. These FMA Minimum Standards shall affect all life assurance contracts on risks located within Austria, i.e. they shall be complied with whenever the policyholder has his habitual place of abode in this country. They shall also apply to insurance undertakings from other EEA Member States which operate in Austria under the freedom to provide services or through branches; if their products do not (exactly) correspond to the Austrian classification into traditional life assurance, investment-oriented life assurance or unit-linked and index-linked life assurance, the most appropriate information requirements with respect to content shall apply.

To products that represent a combination of traditional or investment-oriented and unit-linked or index-linked life assurance, both the provisions for traditional and the provisions for unit-linked and index-linked life assurance are applicable to the presentation of benefits (i.e. for that part that remains in the traditional *Deckungsstock*¹, the presentation in the range must be effected according to the principles described, and the presentation of the fund's

¹ The *Deckungsstock* is a fund which is administered separately from the other assets of the insurance undertakings. It is exempt from creditors' attachment and designed to satisfy the claims of the policyholders in the event of an insolvency of the insurance undertaking.

performance and/or the reference value must be effected using the specified percentages of 0%, 3% and 6%).

These FMA Minimum Standards shall not prevent insurance undertakings from setting higher standards. Other FMA Minimum Standards shall remain unaffected by the present FMA Minimum Standards. It should be noted that more far-reaching information requirements may apply as a result of other legislation.

I. Information requirements for all types of benefits

1. Advertising

Every advertising statement (i.e. every statement with objectively ascertainable or verifiable content) must be true and correct. It must not include anything that might mislead persons to whom it is addressed by way of implications or omissions or in any other way. The groups of consumers addressed should not gain an incorrect impression at a fleeting glance. To this end, it should be geared to an averagely informed and intelligent consumer.

Any eye-catching information *per se* presented in the forefront must not be misleading. Sufficient information shall be deemed given in particular only if it is provided in the expected form and not, for instance, in a much smaller font, in a hidden place or if the eye-catcher is only partly corrected by additional information given. The placement of a footnote *per se* might not be sufficient to correct an eye-catching accentuation, in particular not if the footnote is placed in such a way that it is hardly legible or hardly detectable.

If performance curves are calculated for different initial situations by way of example, the principles established for the presentation of benefits shall apply to the forecast values.

2. Product name

The insurance undertaking must clearly indicate to which of the product categories listed below the policyholder's contract is to be assigned:

- Traditional life assurance;
 - Endowment insurance;
 - Death insurance;
 - Combined insurance (endowment and death);
 - Disability insurance;
 - Pension insurance;
 - Dread disease insurance
(insurance coverage for the occurrence of a serious illness);
- Investment-oriented life assurance;
- Unit-linked life assurance;
- Index-linked life assurance;
- State-sponsored retirement provision pursuant to Articles 108a to 108i of the *Einkommensteuergesetz* (EStG, Income Tax Law).

3. Applicable law and competent supervisory authority

Pursuant to Article 9a para 1 VAG, when concluding an insurance contract for a risk located

within Austria, the policyholder shall be informed in writing prior to contract declaration of the following items, among others:

- Name, address of the head office as well as legal form of the insurance undertaking and, if necessary, of its branch through which the insurance contract is concluded. This shall be clearly stated in the application form.
- The law applicable to the contract or, if the applicable law can be freely chosen, the law proposed by the insurance undertaking. The policyholder shall be clearly informed as to which law governs the insurance contract. If the contract is concluded under foreign law, it shall be indicated to the policyholder that foreign law is principally applicable and that, in accordance with Article 9 of the Law on International Insurance Contract Law, only mandatory provisions of Austrian law shall apply, unless the chosen law is more beneficial to the policyholder. Such mandatory provisions comprise, for instance, information requirements prior to the conclusion of the contract, right of rescission, right of termination and mandatory provisions of the *Konsumentenschutzgesetz* (KSchG, Consumer Protection Act).
- Name and address of the supervisory authority responsible for the undertaking or of another body to which complaints about the insurance contract concerned can be addressed. In the case of domestic insurance undertakings, this is the FMA. In the case of a foreign insurance undertaking, the foreign supervisory authority or any other competent body in the country concerned shall be named. If the foreign insurance undertaking also names the FMA, it shall be expressly stated that the foreign supervisory authority is principally charged with supervision.

4. Means of communication

The policyholder shall be informed of the means of communication that may be used between him and the insurance undertaking.

From the FMA's point of view, if an insurance undertaking has obtained the customer's express approval, it may provide the information (pursuant to Articles 9a, 18b and 75 VAG) not on paper but "on another permanent data storage device" (within the meaning of the *Fern-Finanzdienstleistungs-Gesetz* [FernFinG; Act on Distance Marketing of Consumer Financial Services]; for example by e-mail to an e-mail address provided by the policyholder as long as the policyholder has the possibility of saving the information). The policyholder shall be informed of his right of revocation at any time and that the annual policy summary report pursuant to Article 18b para. 2 no. 2 VAG will be submitted by this means. If the policyholder so wishes, the respective information shall be submitted to him on paper.

5. Termination of the contract

Pursuant to Article 9a para. 1 no. 6 VAG, when concluding an insurance contract for a risk located within Austria, the policyholder shall be informed in writing prior to contract declaration of the circumstances under which he can revoke or cancel the conclusion of the insurance contract. The policyholder shall be informed of the rights of rescission pursuant to Article 3 KSchG, Article 3a KSchG, Article 5b of the *Versicherungsvertragsgesetz* (VersVG; Insurance Policy Act), Article 165a VersVG and Article 8 FernFinG. In particular, the policyholder shall be informed of how he can exercise his right of rescission and by what deadline.

Pursuant to Article 18b para. 1 no. 2 VAG, when concluding an insurance contract for a risk located within Austria, the policyholder shall be informed in writing prior to contract declaration of his statutory right of termination pursuant to Article 165 VersVG and any right of termination granted under the contract. In particular, the policyholder shall be informed of how and at what time (and by what deadline) he can terminate the contract. In addition, the policyholder shall be informed of the consequences of a termination (cf. "Surrender" below).

II. Information requirements for traditional life assurance

1. Premium sum

The policyholder shall not only be informed of the premium but also of the premium sum (including insurance tax and excluding premium shares for supplementary insurance) for the entire term, as the ratio of the entire premium sum to the guaranteed endowment benefit may be a decision criterion for the policyholder. In the case of death insurance, the premium sum need not be stated.

The premium sum for supplementary insurance must be stated separately. Mention should be made that the premiums are indicated including insurance tax and excluding premium shares for supplementary insurance, and that they refer to a certain method of payment, which must be explicitly stated (monthly, quarterly, semi-annual or annual payment). If surcharges are levied for payments made during the year, the amount of the surcharge must be stated.

The premium sum must be presented in comparison with the guaranteed benefit, the forecast endowment and death values as well as the surrender values, in order to enable the policyholder to make a comparison between his premium payments and the insurer's benefit payments.

The policyholder shall be informed whether the information is presented with or without index adjustment. If an index adjustment is made, the percentage must be indicated. All compared values shall be given uniformly, either with or without index adjustment.

Pursuant to Article 18b para. 1 no. 5 VAG, the policyholder shall be informed of the premium shares for the main benefit and the additional benefits, with the additional benefits meaning any supplementary insurance. Any additional costs for additional expenditure incurred by the insurance undertaking (e.g. medical examination fees) shall be listed.

2. Guaranteed rate

The policyholder shall be informed that the interest payment for traditional life assurance comprises two components, the so-called guaranteed assumed interest rate and the variable participation in profits. The policyholder shall be advised that interest is not paid on the entire premium but only on the "savings premium". The savings premium is that part of the premium that is not calculated for the death risk ("risk premium") and the costs of the insurance undertaking ("cost premium").

The policyholder shall be informed that the guaranteed sum insured is calculated based on this guaranteed assumed interest rate. The guaranteed rate at the time of the conclusion of the contract shall be communicated to the policyholder.

3. Participation in profits

Participation in profits in life assurance constitutes a significant part of the benefit of a life assurance undertaking. As the premiums agreed in life assurance contracts are calculated conservatively, profits arise that shall be passed on to the policyholders in the form of participation in profits within the framework of the contractual arrangements and the statutory provisions.

The presentation of the participation in profits must be clear, unambiguous and concise. It must enable the interested party to gain an impression of the accrual, distribution and concrete use of profits. An unambiguous and obvious distinction shall be made between guaranteed benefits and participation in profits; the non-binding character of the forecast participation in profits shall be emphasised. The presentation must make it clear that the forecasts become less accurate with increasing time.

When presented the participation in profits, the policyholder shall be advised that this is only a calculation model based on current conditions. The presentation of benefits shall include an indication that the amount of the participation in profits depends on the development of the capital markets, the actual investment earnings as well as any future changes in risk and costs.

Pursuant to Article 18b para. 1 no. 3 VAG, the policyholder shall be informed in writing prior to contract declaration of the principles of calculating the participation in profits. The following points in particular shall be clarified:

Definition of bonuses: The profits of life assurance undertakings comprise capital investment result, risk result and cost result. The interest profit is derived from the earnings of investments exceeding the assumed interest rate. Life assurance undertakings are obliged to carry out conservative calculations, ensuring that contractual benefits can be fulfilled even if mortality develops unfavourably. If mortality actually occurs at a more favourable point in time than calculated, risk profits will arise. In order to be able to cover the costs incurred during the contractual period, the insurance undertakings are obliged to exercise caution in calculations. If a life assurance undertaking economises more than calculated, cost profits will arise. Pursuant to Article 18 para. 4 VAG, policyholders shall be given an adequate portion of the generated profits.

Further information on the participation in profits: The policyholder shall be informed of the profit and/or account group to which his contract is assigned, as well as of the date as at which the profits will be irrevocably allocated to the contract. Mention should be made that the notes to the financial statements shall include and explain the assessment basis pursuant to the *Gewinnbeteiligungs-Verordnung* (GBVVU; Profit-Sharing Regulation) and that the bonus amounts and the period of distribution must also be given (pursuant to Article 81n para. 2 no. 20 VAG, the notes to the financial statements shall specify the bonus amounts in the life assurance business and, pursuant to Article § 81n para. 1 no. 8 VAG, the period for the distribution of the surplus). A possible waiting period for profits must be clearly indicated to the policyholder.

4. Effective yield

The effective guaranteed rate and the effective total interest payment can be deducted from the information to be provided pursuant to these Standards.

In addition, upon request of the (potential) policyholder, the effective guaranteed rate of the endowment benefit shall be given if the insurance contract provides for a positive endowment benefit. This effective guaranteed rate shall mean the internal interest rate of the payment flows, which result from deposits in the form of premiums and amounts to be paid out in the form of insurance benefits.

The difference between guaranteed rate and effective guaranteed interest payment indicates the amount by which the yield is diminished, upon the survival of the policyholder, due to the cost shares (in the case of endowment and pension insurance) and/or risk and cost shares (in the case of endowment and death insurance) contained in the premiums.

Furthermore, the (potential) policyholder shall, upon request, be informed of the effective total interest payment, which results analogously from the forecast endowment benefit (i.e. guaranteed sum insured including forecast participation in profits) and the premium payments. The difference between total interest payment and effective total interest payment indicates the amount by which the yield is diminished, upon the survival of the policyholder, due to the cost shares (in the case of endowment and pension insurance) and/or risk and cost shares (in the case of endowment and death insurance) contained in the premiums.

5. Bases of calculation for pension benefits with annuity option

If an annuity option has been agreed in the contract and the pension benefit is not guaranteed, the policyholder shall be clearly advised that the amount of the annuity is calculated according to the bases of calculation applicable at the time of accrual (mortality table and assumed interest rate), i.e. at the time of accrual it may be either higher or lower than the forecast pension benefit.

6. Surrender and premium exemption

The policyholder shall be informed prior to the conclusion of an insurance contract of the surrender values and the premium-free insurance benefits. The regulation pertaining to the surrender value shall be described clearly and understandably. The surrender value, the premium-free insurance benefit and the premium sum shall be estimated separately for each year of coverage and presented in tabular form. The calculation and estimate shall refer both to the guaranteed values and the guaranteed values plus participation in profits (noting the non-binding character). The allocation pursuant to Article 176 para. 5 VersVG of those acquisition costs that are non-recurrent in technical terms shall be considered when calculating the surrender values.

Furthermore, the policyholder shall be informed that premature termination of the life assurance contract may result in losses for the policyholder, in particular in the first few years after conclusion of the contract, for instance because of the need to cover the acquisition costs. In addition, the policyholder shall be informed that the surrender value does not correspond to the total of all premiums paid in but is calculated according to actuarial principles from the premiums paid in less the premium shares for costs and risk.

The policyholder shall be notified of the possibility of premium exemption. If an exemption from premiums is only possible after the agreed minimum amount has been reached, this shall be indicated in the table.

If an amount is to be deducted in the case of premature contract termination or premium

exemption, the policyholder shall be informed of the deduction as a fixed amount or percentage. The FMA points out that such a deduction requires an explicit agreement and must also be an appropriate amount (cf. Article 176 para. 4 VersVG). If the deduction is given in per cent, the underlying assessment basis shall be explained. Any deduction shall already be taken into account in the presentation of the surrender value.

In the case of contracts stipulating premium payments which fundamentally do not remain constant, the policyholder shall be advised that, in the event of surrender prior to completion of the tenth year of coverage, the premium paid will subsequently be subject to an additional tax in the amount of 7%.

7. Further information about the presentation of benefits in traditional life assurance

Future developments shall be factored in when presenting benefits. In phases of falling interest rates in particular, historical presentation results in higher yields than may be expected and shall, therefore, in general not be admissible.

- Interest bonus rate: The highest interest bonus rate on the basis of which the forecast amount to be paid out may be calculated is that which has been published for the corresponding premium in the most recent annual financial statement. The calculation of the expected amount to be paid out shall be based on the bonus system used by the respective undertaking. The use of an interest bonus rate lower than that published in the most recent financial statement is possible and under certain circumstances necessary, e.g. if a reduction of bonus rates has already been agreed. In such a case, one month after the adoption of the new, lower interest bonus rate at the latest, forecast calculations may no longer be made using the former, higher bonus rate. Concrete details about the participation in profits shall always be subjected to a reality check with regard to the respective undertaking and the expected development of the market. In general, the future participation in profits may only be presented on the basis of the currently declared bonus rates if it can be realistically assumed that the declared bonus rates will also be able to be granted to policyholders in the future (see also the Federal Ministry of Finance's letter of 10 August 1998, reference code 9 000 400/4-V/10/98, in conjunction with the decree of 14 May 1965, no. 46.373-19/65). Presentations on the basis of higher values than those last declared shall only be admissible if higher bonus rates have already been definitely agreed.
- Range calculation: The indication of a 'range', i.e. a possible amount to be paid out above and a possible amount to be paid out below the expected amount to be paid out or the expected annuity amount, shall be required in order to elucidate the non-binding character of the forecast values. In the case of such a range, the two additional values shall normally be calculated using interest bonus rates which are higher and lower than that upon which the expected amount to be paid out is based and exactly on the basis of the bonus system of the respective undertaking. The interest bonus rate on the basis of which the upper value of the range is calculated may be no more than one percentage point above the interest bonus rate on the basis of which the expected amount to be paid out is calculated. In this context, the interest bonus rate on the basis of which the expected amount to be paid out is calculated must be the arithmetical mean of the two values on the basis of which the range is calculated. The total interest payment shall be stated in per cent.
- Sample calculation: In a sample calculation for the respective policyholder, this presentation should normally be based on both a specific premium as well as on specific contractual data. An approximation of the range based on exactly calculated surcharge and deduction factors for certain premiums and term/age at entry/gender combinations shall, however, be



admissible for advertising purposes and in general information leaflets.

- Indication of non-binding character: The presentation of the possible amount to be paid out or possible annuity amount describes alternative scenarios of possible contract developments merely by way of example. The policyholder shall be clearly advised that the forecast amounts are non-binding. Moreover, the impression shall be avoided that the values of a range represent an upper or lower limit for the amount actually to be paid out. Any phrases shall be strictly avoided which convey to the customer the impression that the information provided is binding. In this context, attention is once again drawn to the requirement to use the 'as the' sentence² (decree of the Federal Ministry of Finance of 14 May 1965, no. 46.373-19/65). Adding upper and lower range limits to the 'as the' sentence shall be admissible.
- Separation between guaranteed benefits and participation in profits: The presentation of the guaranteed benefits must also be clearly separated from the presentation given by way of example of the benefits upon expiry of the policy or the overall pension benefits. The policyholder must be clearly advised that he is only entitled to the guaranteed benefits. This requires a clear distinction to be made between guaranteed and non-guaranteed benefits.
- Annual policy summary report: The FMA recommends that, together with the information on the status of the acquired participation in profits and the bonus rates pursuant to Article 18b para. 2 no. 2 VAG (as well as together with the details pursuant to Article 7 GBVVU), the policyholder be informed every year, if technically feasible, of the expected amount to be paid out which would result from the bonus allocations made so far. In this context, the range based on the already acquired bonuses may be re-calculated in order to guarantee that the figure for participation in profits is as transparent and intelligible as possible. In the case of annuity insurance contracts, it is particularly recommended that the policyholder be informed of the current value of the annuity to be expected. In addition, it is suggested that the policyholder be informed every year during the term of the insurance contract of the death benefit, the surrender value, the premium-free sum insured including the participation in profits acquired so far and the premiums paid in so far. Reporting date for all information shall be the end of the last complete year of coverage. The above-mentioned principles shall be applied to such annual forecast and range calculations.

III. Information requirements for investment-oriented life assurance

All information requirements laid down in Chapter II shall also apply to the investment-oriented life assurance.

In addition, prior to the conclusion of the investment-oriented life assurance contract, the policyholder shall be informed of the type of investment being the subject matter of the contract. Meaningful information on classification in the investment categories, e.g. shares, bonds, investment funds, shall be provided, including information on the focus in certain markets, if applicable. Furthermore, the policyholder must be advised on the conditions under which the investment strategy may be modified. Such change in strategy may also consist in the turnover of shares and fixed-interest securities, depending on the market situation (and based on a mathematical model).

² "As the surpluses achievable in the coming years cannot be predicted, any figures given for participation in profits (surplus amounts, profit balances, premium refunds, etc.) are derived from estimates based on current conditions. Such information is therefore non-binding."



The main characteristics of the investment strategy, especially with respect to the differences from the investment strategy in the traditional life assurance, must be explained. The policyholder must also be clearly instructed about the implications arising for him from this.

Upon annual policy summary report, the policyholder shall be provided with information regarding the status of an acquired participation in profits as well as about the structure of the investments. The policyholder shall also be informed of changes in the type of investment and in the investment strategy agreed or of the conditions for their modification.”

IV. Information requirements for unit-linked and index-linked life assurance

1. Investor profile for unit-linked and index-linked life assurance

The investor profile aids in assessing the policyholder’s information and consultancy needs. The aim of the consultancy is for the policyholder to select only such products about the functioning and risks of which he is sufficiently informed, which are in line with his investment goals and his investment horizon and which are acceptable within the framework of his financial circumstances.

The following should be documented during an information meeting:

- any decision by the policyholder for a product against the advice of the consultant;
- any risk entailed in the product which is atypically high compared with the risks of investments made so far; and/or
- any inconsistency between the financial circumstances and/or the willingness of the policyholder to assume risk and the risks entailed in the desired product.

If the policyholder does not provide any details about his personal circumstances, he shall confirm this with his signature. In such a case explicit mention should be made that the policyholder will not receive the best possible consultancy and information with respect to bearing the investment risk.

In the case of products where at least the premium sum paid in is guaranteed (on matters of “Guarantee” refer to Point 4. below), the applicant shall be queried about the investment horizon envisaged and the goals pursued with the investment, in addition to his knowledge and experience of securities investment and his financial circumstances (monthly income and the amount freely disposable every month).

The requirements applying to the investor profile are stricter for products without guaranteed benefits or in the case of products where the guarantee does not at least extend to the premium sum paid in than for products where at least the premium sum is guaranteed as the policyholder bears a higher investment risk. The question about knowledge and experience of securities investment shall be posed in detail by offering several possible investment vehicles and by then allowing the applicant to state his experience with and knowledge of them (e.g. by rating these according to the school grading system). With regard to financial circumstances, the applicant shall be questioned about his monthly income and the amount freely disposable every month. In addition, the investment goal pursued, the investment horizon envisaged and the willingness to assume risk shall be queried.

2. Capital investment

Prior to the conclusion of a contract, the policyholder shall be provided with sufficient information on the investment:

- Information about the amount of the invested premium and/or the amount of the overall costs: The policyholder shall be informed as to which part of his premium is actually invested (every year) and remains invested (e.g. in the event that administrative and risk costs are withdrawn from the life/health insurance provision at the end of the year). To this end, it is necessary to explain to the policyholder in a transparent manner the amount of the overall costs deducted (these comprise the technical administration costs, the current administrative costs as well as the risk costs).
- Information on the fund: The composition of the fund shall be briefly described and the ISIN (International Securities Identification Number) and the name of the investment fund management company additionally indicated. Furthermore, the policyholder shall be provided with the website address of the investment fund management company (if available), so that the policyholder can inform himself about the current composition of the fund.
- Presentation of the performance to date: The performance of the fund to date, in the case of unit-linked life assurance, or the performance of the reference value to date, in the case of index-linked life assurance, shall be presented in a chart covering as long a time period as possible. If the fund has been launched only recently, this shall be stated.
- Options: If options are available, the policyholder shall be informed according to his needs of the investment vehicles, earnings capacity and risk of these options.
- Fund switch: The policyholder shall be informed about the possibility of switching funds as well as about the costs entailed therein.

3. Premium sum

The policyholder shall not only be informed of the premium but also of the premium sum (including insurance tax and excluding premium shares for supplementary insurance) for the entire term. The premium sum for supplementary insurance must be stated separately. As the ratio of the entire premium sum to the invested premium may be a decision criterion for the policyholder, the sum of the premium invested during the entire term shall also be disclosed. Mention should be made that the premiums are indicated including insurance tax and excluding premium shares for supplementary insurance, and that they refer to a certain method of payment, which must be explicitly stated (monthly, quarterly, semi-annual or annual payment). If surcharges are levied for payments made during the year, the amount of the surcharge must be stated.

The policyholder shall be informed whether the information is presented with or without index adjustment. If an index adjustment is made, the percentage must be indicated. All compared values shall be given uniformly, either with or without index adjustment.

The premium sum must be presented in comparison with any guaranteed benefit, the forecast endowment and death values as well as the forecast surrender values, in order to enable the policyholder to make a comparison between his premium payments and the insurer's benefit payments.

Pursuant to Article 18b para. 1 no. 5 VAG, the policyholder shall be informed of the premium shares for the main benefit and the additional benefits, with the additional benefits meaning any supplementary insurance. Any additional costs for additional expenditure incurred by the insurance undertaking (e.g. medical examination fees) shall be listed.

4. Guarantee

In the case of products with an external guarantee, the policyholder shall be informed of the extent of the guarantee within the meaning of Article 18b para. 1 no. 1 VAG. In particular, an explanation shall be provided in a manner comprehensible to the average policyholder of the subject of the guarantee as well as, if possible, an estimate of the guarantee amount. The policyholder shall be informed as to who assumes the promise of guarantee, and any obligation of the policyholder to bear the default risk shall be clearly pointed out to him.

5. Surrender and premium exemption

In the case of unit-linked and index-linked life assurance, the regulations concerning the surrender value and the premium-free sum insured shall be clearly and understandably stated prior to conclusion of the insurance contract. The surrender value, the premium-free insurance benefit and the premium sum shall be estimated separately for each year of coverage and presented in tabular form.

If an amount is to be deducted, the deduction shall already be taken into account in the presentation of the surrender value. However, it shall be listed separately in a separate table column (as a fixed amount or percentage). If the deduction is given in per cent, the underlying assessment basis shall be explained. The FMA points out that such a deduction requires an explicit agreement and must also be an appropriate amount (cf. Article 176 para. 4 VersVG).

The surrender value table shall at least contain calculations for a 0% performance of the underlying reference value on which the insurance is based (e.g. funds, share index). The policyholder shall be instructed on how he can determine the respective overall costs from the table. The allocation pursuant to Article 176 para. 5 VersVG of those acquisition costs that are non-recurrent in technical terms shall be considered. The policyholder shall be explicitly informed that premature termination of the life assurance contract may result in losses for the policyholder, in particular in the first few years after conclusion of the contract, for instance because of the need to cover the acquisition costs. In addition, the policyholder shall be informed that the surrender value does not correspond to the total of all premiums paid in.

Any minimum amount for the possibility of premium exemption pursuant to Article 174 VersVG shall be stated.

In the case of contracts stipulating premium payments which fundamentally do not remain constant, the policyholder shall be advised that, in the event of surrender prior to completion of the tenth year of coverage, the premium paid will subsequently be subject to an additional tax in the amount of 7%.



6. Further information about the presentation of benefits in unit-linked and index-linked life assurance

- Information about the investment risk: The policyholder must be unmistakably advised that he bears the investment risk and that steady increases in value cannot be assumed in unit performance since, as a rule, it is subject to fluctuations. It shall be clearly emphasised that the information on unit performance refers to the past and that this past behaviour does not permit any reliable conclusions concerning future development. If the product does not include a guarantee, the policyholder shall be clearly advised that losses in the fund assets may occur and that the amount to be paid out from his insurance contract may be lower than the total premiums paid in.
- Sample calculation: An offer shall be prepared on the basis of the policyholder's individual circumstances (age, gender, term, premium amount and method of payment of the premiums), but using the given percentages of an assumed performance of the reference value on which the insurance is based (e.g. funds, share index) of 0%, 3% and 6%.
- In the case of a participation in profits: In the case of unit-linked and index-linked life assurance, when presenting future expected profit values, a clear distinction should be made between the performance of the units given a steady increase in value on the one hand, and the participation in profits from the cost and risk behaviour patterns based on the current declaration of participation in profits on the other.
- Indication of non-binding character: The presentation of the possible amount to be paid out or possible annuity amount describes alternative scenarios of possible contract developments merely by way of example. The policyholder shall be clearly advised that the information on the forecast amounts is non-binding. Any phrases shall be strictly avoided which convey to the customer the impression that the information provided is binding.
- Annual policy summary report: Pursuant to Article 18b para. 2 no. 2 VAG, the policyholder shall be informed every year during the contractual period of the value of the units allocated to him (in the case of unit-linked life assurance) or the performance of the reference value of the insurance contract (in the case of index-linked life assurance). It is also suggested that, in addition to the above information, the policyholder be informed every year of the performance of the fund on which the unit-linked life assurance is based or the reference value on which the index-linked life assurance is based for the last year of coverage and since the conclusion of the insurance contract, the shares per fund, the market price, the expected amount to be paid out, the death benefit, the current surrender value, the premium-free sum insured and the premiums paid in so far.

If the composition of the fund and the performance of the underlying fund cannot be traced through the website of the investment fund management company, the insurance undertaking is obliged to inform annually about changes in the composition of the fund and to make sure that the investment company informs on the policy holder's request about the composition of the fund and the current value of a unit, in order to secure external traceability.

V. Additional information requirements for state-sponsored retirement provision

1. Capital investment - Indication of the 40% portion of shares

Information about the amount of the invested premium and/or the amount of the overall costs:

The policyholder shall be informed as to which part of his premium is actually invested (every year) and remains invested (e.g. in the event that administrative and risk costs are withdrawn from the life/health insurance provision at the end of the year). This means that the policyholder must be informed in a transparent manner of the amount of the overall costs deducted including a possible risk premium.

The policyholder shall be advised that the investment is made up of at least 40% shares, as provided for by the law, and that these shares were initially admitted to a stock exchange situated in a Member State of the European Economic Area. The share of the market capitalisation of the shares initially admitted in this Member State may not exceed 40% of the gross domestic product of said Member State over a period spanning several years.

In addition, the policyholder shall be informed of the higher volatility and lower assumed interest rate resulting from the portion of shares.

2. Annual policy summary report:

With regard to the annual policy summary report pursuant to Article 18b para. no. 2 VAG, it is recommended to additionally inform the policyholder of the amount of the government bonus.

3. Regulations concerning taxes

Pursuant to Article 18b para. 1 no. 8 VAG, the policyholder shall be informed in writing of the applicable regulations concerning taxes prior to his contract declaration. In this context, the policyholder shall be informed in particular of the disposal options he is entitled to pursuant to Article 108i EStG and the resulting legal consequences. In particular, the policyholder shall be advised that, if he does not use the funds as dedicated, i.e. when the capital is paid out after the 10th full year of coverage at the earliest, 50% of the state-sponsored premiums granted so far must be paid back to the financial authorities and the capital income must be taxed retrospectively at a rate of 25%. Furthermore, the policyholder shall be informed if the guarantee expires after the minimum commitment period as a result of the capital having been paid out.

4. Example

An offer shall be prepared on the basis of the policyholder's individual circumstances (age, gender, term, premium amount and method of payment of the premiums), but using the given percentages of an assumed performance of 0%, 3% and 6%. The performance at an assumed rate of 0% may be replaced with information about the guaranteed amount to be paid out. The policyholder shall be advised that the government bonus is determined anew every year but that the forecast calculation is based on a stable percentage.

The presentation of the possible amount to be paid out or possible annuity amount describes alternative scenarios of possible contract developments merely by way of example. The policyholder shall be clearly advised that the information on the forecast amounts is non-binding. Any phrases shall be strictly avoided which convey to the customer the impression that the information provided is binding.

**Response to the consultation by Commission Services on legislative steps
for the Packaged Retail Investment Products initiative**

About Assuralia:

Assuralia is the representative body for mutual, co-operative and joint-stock insurance companies in Belgium since 1920 and represents more than 98% of the Belgian life insurance market (de Meeûssquare 29, 1000 Brussels, Register of interest representatives nr. 0026376672-48).

Executive summary

Assuralia proposes that the PRIPs initiative focuses on products where an investment risk is borne by the consumer, which implies that the amount payable to the consumer at maturity date may be lower than the initial amount invested. It is therefore highly important that the consumer is well informed when deciding whether or not to invest in such products. According to Assuralia, the element of packaging is not relevant in this matter.

For the Belgian life insurance market this would mean that not only unit-linked and index-linked life insurance products - where the amount payable to the investor at maturity date may be lower than the initial amount invested - would fall within scope, but also life insurance products where only part of the return is unit- or index-linked.

Other insurance products, such as pure risk insurance products or savings products which provide the investor with a contractually determined return on the net invested amount (with or without a supplementary profit sharing), would be out of scope. By excluding the latter, a level playing field is guaranteed with competing products, such as (simple) deposits, which according to the Commission itself should not fall within scope of the initiative.

Concerning pension products, Assuralia agrees with the Commission that these products should be excluded from the PRIPs initiative, as there are other ongoing initiatives which can better take into account the specificities of the different kinds of pension products available on the European market, and the particular level playing field issues between pension providers. According to Assuralia, it concerns those products where provisions of national law accord particular benefits to the client in relation to the product by virtue of its use for the purpose of retirement planning.

Deze informatie is strikt voorbehouden aan de leden van Assuralia en mag alleen worden verspreid met haar toestemming

HUIS DER VERZEKERING

Assuralia advocates that a one-size-fits-all solution for information requirements for PRIPs is not feasible due to the great diversity of products that may be considered to be PRIP. Moreover, any new information requirements for PRIPs should take into account the legal provisions that already exist both at national and supranational level to avoid duplication. Furthermore, too rigid requirements risk inhibiting product innovation.

New information requirements should therefore be flexible enough to take into account the key differences between different types of PRIPs and to allow for an appropriate level of tailoring with regard to the specific features of an insurance PRIP.

Assuralia recommends the Commission to draw inspiration from the positive experience of the Belgian life insurance sector with its own key information document, the so-called "Financial information sheet". This standardized document is written in plain language and gives the consumer clear information about the features of a life insurance product deemed necessary to compare products and to make an informed investment decision. The document has been created in collaboration with our national supervisor, and its practical use has been confirmed by the Belgian government.

An important challenge for life insurance PRIPs lies in combining fund-level and product-level information disclosures. Assuralia would like to highlight that the Belgian "Financial information sheet" offers an adequate solution in this respect.

Response to the consultation

Assuralia welcomes the initiative of the European Commission to assure that retail investors are adequately informed when buying a product that exposes them to market risk and is ready to assist the Commission in its efforts where necessary.

Assuralia takes great interest in consumer protection. That is why in the Belgian life insurance market a number of initiatives were developed which aim at correctly informing consumers and preventing mis-selling. We would like to ask the Commission to take into account national market initiatives such as these, which have proven to be successful.

Due to the particularities of life insurance products, tailored implementing measures are indispensable, especially when using certain benchmarks that originally were not intended to be applicable on life insurance products and thus need to be adapted to fit their new purpose.

We thank the Commission to pay attention to the risk of creating an unlevel playing field between competing products, the risk of over-regulation and the creation of unnecessary administrative burden both for consumers, intermediaries and companies when considering legislative measures.

2. Scope of the PRIPs Regime

(1) Should the PRIPs initiative focus on packaged investments? Please justify or explain your answer.

(2) Should a definition of PRIPs focus on fluctuations in investment values? Please justify or explain your answer.

(3) Does a reference to indirectness of exposure capture the 'packaging' of investments? Please justify or explain your answer.

(4) Do you think it is necessary to explicitly clarify that the definition applies to fluctuations in 'reference values' more generally, given some financial products provide payouts that do not appear to be linked to specific or tangible assets themselves, e.g. payouts linked to certain financial indices, the rate of inflation, or the overall value of a fund or business?

Assuralia proposes the following **definition** for the scope of **the so-called "PRIPs initiative"**:

PRIPs are retail investment products which include an investment risk that is borne by the investor (either wholly or in part). Consequently, the amount payable to the investor at maturity date of the PRIP may be lower than the initial amount invested.

Whether or not a product is packaged, is thus less relevant to determine whether or not the product falls within the scope of the initiative.

For these products, which may require a more in-depth financial understanding, it is essential that a consumer can make an informed decision on the basis of fair, clear, adequate and comparable product information.

Applying this definition to the Belgian life insurance market means that the following products would fall within the scope of the initiative:

- unit-linked life insurance products and index-linked life insurance products where the amount payable to the investor at maturity date may be lower than the initial amount invested;
- life insurance products where only part of the return is unit or index-linked and thus part of the amount payable to the investor at maturity date may be lower than the initial amount invested.

Conversely, the following products would in any case be **excluded from the scope** of the initiative:

- life insurance products which provide the investor with a contractually determined return on the net invested amount (so-called "life insurance products with a guaranteed return"), both with and without a supplementary profit sharing. These life insurance products are savings products similar to deposits, which according to the consultation paper have not been targeted by the initiative since they raise materially different consumer protection issues.
- life insurance products which provide for pure risk coverage (e.g. death payments only), since these products do not expose the consumer to any investment risk, but only pay out a certain capital if the insured event takes place.
- capital redemption operations based on actuarial calculation whereby, in return for single or periodic payments agreed in advance, commitments of specified duration and amount are undertaken¹, since the return is not linked to the performance of financial assets and the investment risk is not borne by the retail investor. Moreover, these products are also similar to deposits and thus should not be targeted by this initiative.
- Pension products, since there are other ongoing initiatives that focus specifically on pensions and that can take into account more accurately the specificities of the different kinds of pension products available on the European market, and the particular level playing field issues between pension providers (see our answer to question 9).

(5) Do you have any other comments on the proposed definition? If you consider it ineffective in some regard, please provide alternatives and explain your rationale in relation to the criteria for a successful definition outlined above.

It is appropriate to complement the definition with a white list of products that are out of scope of the initiative to avoid the creation of an unlevel playing field between similar products, such as life insurance products that are not linked to a fund or an index and simple deposits, that both pay a simple interest and for which the investor does not bear the investment risk, or between pension products (see our answer to question 9 for the particular pension issues).

(6) Should simple (non-structured) deposits be excluded from the scope of the initiative? Please justify or explain your answer.

Assuralia is of the opinion that PRIPs are products where the investment risk is borne by the consumer (see our answer to question 1).

¹ See article 2, 2., (b) of the directive 2002/83/EC of the European parliament and of the Council of 5 November 2002 concerning life assurance.

Simple (non-structured) deposits do not meet this definition as they offer a guaranteed return on the investment, and should therefore be excluded from the scope of the initiative.

Simple (non-structured) deposits are similar to life insurance products with a guaranteed interest, which also ought to be excluded from the scope of the initiative, thereby maintaining a level playing field between both products.

(7) Do you consider option 1 or option 2 preferable for achieving this? Please explain your preference, and set out an alternative if necessary, with supporting evidence.

Option 1

A deposit shall be a PRIP where [it is fully repayable, on terms under which] any interest or premium will be paid (or is at risk) according to a formula which involves the performance of:

- an index or combination of indices, excluding variable rate deposits whose return is directly linked to e.g. EURIBOR, LIBOR or another interest rate index;*
- a MiFID financial instrument or combination of such financial instruments;*
- a commodity or combination of commodities;*
- a foreign exchange rate or combination of foreign exchange rates.*

Option 2

A deposit shall be a PRIP if either of the following conditions are met:

- its principal is not repayable at par;*
- its principal is only repayable at par under a particular guarantee or agreement provided by the credit institution or a third party.*

The definition of PRIPs should be sufficiently clear to differentiate between simple (non-structured) deposits and similar products on the one hand, and complex (structured) deposits that provide for a return linked to the performance of one or more indices, securities or commodities on the other hand. This definition might be supplemented by a white list to clarify which products do not meet the definition and thus fall out of scope to provide legal certainty and to guarantee a level playing field between similar products.

(8) Should such an exclusion be extended to financial instruments which might raise similar issues as deposits (e.g. bonds), and if so, how might these be defined? Please justify or explain your answer.

See our answer to question 1: Only retail investment products which expose the retail investor to an investment risk, i.e. where the amount payable to the investor at maturity date may be lower than the initial amount invested, should fall within the scope of the initiative. This principle should also be followed to determine whether or not other products, such as bonds and life insurance products, should be excluded.

Consequently, life insurance products which provide the investor with a contractually determined return on the net invested amount (so-called "life insurance products with a guaranteed return"), with or without a supplementary profit sharing, should be excluded from the scope as these products do not expose the consumer to an investment risk. Moreover, these products are similar to simple deposits², therefore a level playing field with these products should at all times be guaranteed.

(9) For the purposes of the PRIPs initiative, the Commission proposes that those products where the provisions of national law accord particular benefits to the client in relation to the product by virtue of its use for the purposes of retirement planning should be excluded from scope.

Should pensions be explicitly excluded from the PRIPs initiative at this stage? Please justify or explain your answer.

We agree that all products where the provisions of national law accord particular benefits to the client in relation to the product by virtue of its use for the purposes of retirement planning should be excluded from the PRIPs initiative.

It is also important to highlight that certain pension products in Belgium are negotiated between social partners. Employers negotiating a pension plan for their employees cannot in this sense be considered retail investors. In addition, these products are often offered in a context of social policy measures, constraining both the insurance company and the employee.

There are other ongoing initiatives that focus specifically on pensions. These initiatives can better take into account the specificities of the different kinds of pension products available on the European market, and the particular level playing field issues between pension providers (such as pension funds and insurers).

(10) Should annuities be treated in the same fashion? Again, please justify or explain your answer.

(11) Do you have any comments on the proposed manner of achieving this exclusion?

(12) Do you agree that variable annuities might need to be treated as a special case? If so, how should these be defined, and how do you think they should be addressed?

Regarding questions 10, 11 and 12 we would like to highlight that annuity products are products with a specific modality of payment. This modality should not be relevant when determining whether or not a product falls within the scope of the PRIPs initiative.

In order to have a consistent regulatory framework and to guarantee a level playing field between similar products, we suggest applying the above mentioned definition of a PRIP (see our answer to question 1) to determine whether or not a product should be included, together with a white list of products that should be excluded from the scope. Any exclusion should not be based on modalities of a product, but

² Not only in the way they function (as explained above), but also with regard to prudential legislation, for example in Belgium both simple deposits and life insurance products not linked to funds or indices are covered by a government guarantee scheme.

on the fact whether or not the product fits the definition and whether or not a level playing field with similar products is being maintained.

(13) Clarifying the definition: Use of indicative lists of products. Do you see benefits from such an indicative list being developed? If not, please provide alternative proposals and evidence for why these might be effective.

We are in favor of the use of an indicative list of products that are out of scope. This list should be clear and consistent with the definition of a PRIP and cannot be considered exhaustive. Such a list would clarify the definition and increase legal certainty and could guarantee a level playing field between similar products.

(14) Do you have any suggestions on the possible contents for such a list, including on how to define items placed on the list?

We suggest including at least the following products in the indicative list of products that are out of scope:

- life insurance products which provide the investor with a contractually determined return on the net invested amount (so-called "life insurance products with a guaranteed return"), with or without a supplementary profit sharing (see our answer to question 1);
- pure risk insurance (see our answer to question 1);
- pension products (see our answer to question 9);
- capital redemption operations based on actuarial calculation whereby, in return for single or periodic payments agreed in advance, commitments of specified duration and amount are undertaken (see our answer to question 1).³

The way the above mentioned products are paid out (annuity payments or lump sum) is irrelevant.

3. Legislative approach to be taken in delivering the PRIPs regime

(15) Should direct sales of UCITS be covered by means of including the relevant rules within the UCITS framework?

(16) Do you have any comments on the identified pros and cons of this approach, and any evidence on the scale and nature of impacts (costs as well as benefits)?

The questions 15 and 16 are not relevant for insurance products.

4. A new pre-contractual product disclosure instrument

(17) Should the design of the KIID be focused on delivering on the objective of aiding retail investment decision making? If you disagree, please justify or explain your answer.

We agree that the focus should be on delivering in a timely matter the key information that will help the consumer make an informed decision. We would like to draw the Commissions attention to the fact that for the Belgian life insurance

³ See article 2, 2., (b) of the directive 2002/83/EC of the European parliament and of the Council of 5 November 2002 concerning life assurance.

market such a key information document exists already as of 2007.⁴ This document is a standardized information document that has a fixed layout and information categories. It provides consumers with easy to understand information about the main characteristics of the product, permitting them to compare different products and to decide whether or not to underwrite a given insurance product. The document is given at the latest before the consumer underwrites a life insurance policy. The content and use of this document has already been evaluated by the consumer protection department of our national supervisor, and turned out to be satisfactory.

(18) Should the KIID be a separate or 'stand alone' document compared with other information that might be necessary, e.g. background information, other disclosures, or contractual information? Please justify or explain your answer.

The KIID should permit insurance companies to add information they deem necessary or helpful for the customer, or to refer to another document for further information. The key information document used in the Belgian life insurance market allows insurance companies to provide additional information at the bottom of the info sheet or to enclose "technical sheets" for detailed information about the underlying funds of the product. This aids at keeping the key information document concise, clear and easy to read, without depriving the consumer of relevant information.

While some insurance products may provide for only one single underlying investment fund, others may offer a considerable number of different combinations of investment funds to the choice and discretion of the customer. As it is impossible to predict which of the available underlying assets the customer will select, it was deemed necessary to separate (as much as possible) pre-contractual disclosures at the level of the product from those at the level of the underlying assets.

(19) What measures do you think will be necessary to ensure KIID remain streamlined and focused solely on key information?

See our answers above (questions 17 and 18).

We would like to stress that limiting such a document to a certain number of pages (in this case only 2) may be to the detriment of the consumer insofar insurance companies may see themselves obliged to shorten relevant information in order to observe the maximum number of pages permitted. This will not necessarily help at achieving the goal of allowing a consumer to make an informed decision.

(20) While the same broad principles should be applied to all PRIPs, should detailed implementations of some of these principles be tailored for different types of PRIP? Please justify or explain your answer, and provide examples, where relevant, of the kinds of tailoring you might envisage.

In order to avoid mis-selling, it is important that a consumer can distinguish the key features of each kind of PRIP so as to understand the difference between different types of PRIPs, while at the same time being able to compare certain key features they might have in common.

⁴ The so-called 'Financial information sheet'.

Comparability requires a certain level of standardization, but standards that are not set carefully will institutionalize misleading comparisons. This is even more important if you take into account the limited financial understanding and risk appreciation of less sophisticated consumers.

However, the UCITS KID cannot be applied in a “one-size-fits-all” manner. It has been developed for single funds and does not take into account the specific features of life insurance products that may be considered to be PRIIPS. These life insurance products are often linked to several funds and offer the investor the choice in which fund to invest. To assure that the investor has all the necessary information to make an informed investment decision it should be possible to refer to one or more documents that give information about these funds. Having to describe the necessary information for all of the funds on a KIID for the life insurance product itself will be impossible due to the limited space available, and will not help at keeping the document clear and easy to read. We therefore advocate a separation between pre-contractual disclosures at the level of the product and pre-contractual disclosure at the level of the underlying funds.

Moreover, there are certain insurance specific items that should be mentioned on a key information document since the consumer needs to be informed of these in order to understand the product and to be able to compare it to other products, for example the presence of a risk cover, the applicable fiscal rules,...

The key information document used in the Belgian life insurance market contains the following items that were identified as necessary and/or relevant for the consumer to make an informed decision:

- *Name of the product*;
- *Type of insurance*: details about the type of life insurance, namely life insurance with return linked to investment funds (branch 23);
- *Benefits*: details about the main cover provided (e.g. in the event of life or in the event of death), and if necessary, any additional cover (e.g. in the event of death or disability);
- *Target market*: General description of the target market;
- *Funds*: Details about
 - the name and nature/composition of the fund in which the investment is/can be made;
 - if necessary, the way in which investments are distributed between the funds available;
 - investment objective;
 - the risk class for the fund(s);
 - the risk profile of the corresponding investor;
 - the manager of the coordinated fund;
- *Return*: Details about the return linked to the funds and if necessary, the existence of cover/capital protection upon maturity and the body that offers this cover, as well as the legal obligation to mention that “the insurance company does not offer a guaranteed return – the financial risk is borne by the insured party”;
- *Past performance* (if available);
- *Fees* (entree fees, exit fees, management fees directly charged on the contract, surrender/withdrawal compensation, fees for fund transfer);
- *Entry/registration*: details about the date of entry/registration (e.g. at any time) or (initial) period for entry or registration, and if necessary the (final) payment date;
- *Duration of the contract*: details about the fact that the insurance cover ends upon the death of the insured party, the duration (e.g. for life, undetermined

- period, x years and y months or start/end date of contract) and if necessary the recommended duration;
- *Net asset value*: details about the net asset value per unit (optional), the date and frequency with which the unit net asset value is determined and the location where the net asset value can be consulted;
 - *Premium*: details about the type of premium (e.g. regular premium or one-off premium), whether or not is possible to make additional payments, if necessary, payment on compulsory/regular dates, if necessary, the frequency with which premiums need to be paid and if necessary, the minimum/maximum payment;
 - *Tax*: details about the tax regime for premium payments, taxes that must be paid on the premium, tax regime for partial/total surrender/withdrawal and tax regime for the benefits (including any exemptions);
 - *Surrender/withdrawal*: details about the procedure for partial surrender/withdrawal and details about the procedure for full surrender/withdrawal;
 - *Funds transfer*: details about whether or not is possible to transfer funds and if necessary, the procedure for a funds transfer (with any differentiation between the reserve already constituted and future payments);
 - *Information*: details about information the policyholder shall receive regularly, reference to the management rules for each fund and the location where these rules can be consulted.

The identification details of the insurer issuing the product are mentioned at the bottom of the document.

These categories have been identified as key information to fully understand the insurance product and to compare the product with other products that might have different features. The items about the risks, costs, performance and guarantees mentioned in the UCITS KIID are part of this key information, but the Belgian key information document is much larger and takes into account many more relevant elements of an insurance product. An example of a Belgian key information document for a unit-linked life insurance can be found in the annex to this document.

(21) Do you foresee any difficulties in requiring the KIID to always follow the same broad structure (sequence of items, labeling of items)? Please justify or explain your answer.

Assuralia agrees that there should be a certain logic in the structure (e.g. certain items should follow one another), and a common layout aids recognition of the document as a reference document for consumers and improves comparison between products.

However, the KIID should be flexible enough to take into account the specific features of insurance PRIPs (see our answer to question 20 for more detail).

(22) Do you foresee any difficulties in requiring certain parts of the key information and its presentation (e.g. on costs, performance, risks, and guarantees) to be standardized and consistent as possible, irrespective of tailoring otherwise allowed? Please justify or explain your answer.

A certain degree of standardization is deemed necessary to aid comparison, however, as said above (our answer to questions 18 to 20) pre-contractual

disclosure at the level of the product should be separated (as much as possible) from pre-contractual disclosure at the level of the underlying funds.

(23) Can you provide examples and evidence of the costs and benefits from your experience that might be expected from greater standardization of the presentation and content in the KIID?

As mentioned above a similar initiative exists already in the Belgian market. Our experience with this initiative has shown that greater standardization can assist consumers at better understanding the product and will facilitate comparison to other products, thus enabling consumers to make an informed investment decision.

However there are some downsides to it as well. If the document is created on top of information already given to the consumer it can be confusing and will place a burden both upon the consumer and the insurer. It is therefore essential to take into account existing national and supranational legislation as well as existing national initiatives or practices (such as the Belgian "financial information sheet" in the field of life insurance, which has proven to be successful), so as to avoid that information requirements are being "duplicated". Delivering to investors several documents containing more or less the same information, would be confusing for investors (they might not be able to distinguish the crucial information from the rest and will tend to not give enough attention to the document) and would imply an unnecessary administrative burden for the firms responsible for preparing these documents.

(24) Should the content of the KIID be controlled so that there is no possibility for firms to add additional information unless expressly allowed for?

It might be necessary to allow firms to derogate from the European rules to a certain level, such as to accommodate specific (national) product design. We refer to the items listed under question 20 that are deemed necessary in the Belgian market to make an informed decision.

Such measures will also prevent the KIID from inhibiting product innovation.

We would also like to highlight that in the Belgian life insurance market each "financial information sheet" is subject to an internal control within the insurance company. To this end, all insurance companies are obliged to appoint a member of staff responsible for verifying whether the "financial information sheet" is compliant with national rules and sector regulation prior to emission of the document.

(25) Do you foresee and difficulties in applying these broad principles to the KIID for all PRIPs, as the building blocks on content and format for a 'level 1' instrument? Please justify or explain your answer.

We agree with most of the principles stated, but as said before a certain level of flexibility regarding both form and content should be maintained to be able to take into account the specificity of these life insurance products falling within the scope of the initiative. This is needed to avoid the consumer being misinformed or even worse, misled.

Regarding the form, the length of the document should be not too prescriptive since this should not be a goal in itself. Regarding the content, certain items need to be added, whereas other items need to be moved to the level of the underlying fund (see our answer to question 20).

(26) Are there any other broad principles that should be considered on content and format?

As mentioned under question 20 there should be a clear separation between pre-contractual disclosures at the level of the product and pre-contractual disclosure at the level of the underlying assets, since unit-linked life insurance products are often linked to several funds and offer the investor the choice in which fund to invest. To assure that the investor has all the necessary information to make an informed investment decision it should be possible to refer to one or more documents that give information about these funds. Having to describe the necessary information for all of the funds on a KIID for the life insurance product itself will be impossible due to the limited space available, and will not help at keeping the document clear and easy to read.

Apart from that the broad principles must be formulated in such a way that they give the possibility to add additional information important for a good understanding of the insurance product (see our answer to question 20 for an overview of the information that is deemed necessary and/or relevant for an insurance product).

(27) Should product manufacturers be made generally responsible for preparing a KIID? Please justify or explain your answer.

(28) Are you aware of any problems that might arise in the distribution of particular products should responsibilities for producing the KIID be solely placed on the product manufacturer?

(29) If intermediaries or distributors might be permitted to prepare the documents in some cases, how would these cases be defined?

Regarding questions 27, 28 and 29:

We agree that the product manufacturer is solely responsible for preparing the KIID and do not foresee any problems regarding the distribution of PRIPs resulting from this. In this respect it is important to highlight that the KIID may not be modified or completed by another party (for example intermediaries).

(30) What detailed steps might be taken to improve the transparency of the social and environmental impacts of investments in the KIID for PRIPs?

(31) How might greater comparability and consistency in product labelling be addressed?

Regarding questions 30 and 31 Assuralia is of the opinion that it is important to give information about the investment policy of the product or its underlying funds. This will help the consumer in comparing products and their social and environmental impact. Product labelling however is not the key question here.

(32) Should the summary prospectus be replaced by the KIID for PRIPs? Please outline the benefits and disadvantages you see with respect to such an approach.

The summary prospectus is not applicable to insurance products.

(33) Should Solvency II disclosures provided prior to the investment decision be replaced by the KIID for PRIPs? Please outline the benefits and disadvantages you see with respect to such an approach.

As mentioned in our answer to question 23, a duplication of information requirements should be avoided, as this will not only be a burden on the insurer, but it will most likely be to the detriment of the consumer as well.

The key information document that is used in the Belgian market already contains most of the pre-contractual information that is required by the Solvency II-directive. As stated in our answer to question 20 this key information document contains the information deemed necessary and/or relevant for an insurance PRIP. We therefore propose to replace the pre-contractual disclosure provisions from Solvency II by the KIID for insurance PRIPs, under the condition that this KIID can contain the previously mentioned necessary and/or relevant items.

(34) Do you agree with the suggested approach for UCITS KIIDs?

The UCITS directive is not applicable to insurance products.

(35) Are there any disclosures, e.g. required by the existing regimes, which you believe the PRIPs KIID should not include, but which should still be disclosed, e.g. separately to the KIID? Do you have any practical examples for such elements?

No, as said before the items mentioned under question 20 should be added to the KIID for insurance PRIPs to allow the consumer to understand the insurance product, to compare it with other products and to make an informed investment decision.

In Belgium, it is possible to disclose specific information about the underlying investment funds of unit-linked life insurance products in so-called "technical sheets", which are enclosed to the "financial information sheet".

(36) What in your view will be the main challenges that will need to be addressed if a single risk rating approach is to work for all PRIPs?

For an insurance PRIP it is not possible to give information about the risk at the level of the insurance product, since unit-linked life insurance products give the consumer the option to invest in different underlying funds which can all have a different risk rating. An overall risk rating at the level of the product would therefore be misleading.

For a single risk rating approach for all PRIPs to be feasible at the level of the underlying funds, it should factor in the correct elements that influence the risk. These elements can not only be situated at the level of the fund, but also at the level of the product, for example when the insurance company (or the government) offers a guarantee. It is not easy to identify all these elements and to take them all

into account in a single risk rating approach. In addition to this challenge, the risk rating method should be clear, consistent and should not leave room for interpretation.

(37) Do you consider there are any other techniques that might be used to help retail investors compare risks?

No, we are of the opinion that a risk rating is sufficient. However, this risk rating should be read in combination with the information on the KIID for insurance PRIPs, since certain information on the key information document may help to clarify the risks to which the consumer is exposed.

(38) What in your view will be the main challenges that will need to be addressed in developing common cost metrics for PRIPs?

It will be difficult to find a common cost metric for all PRIPs. Different PRIPs are manufactured in different ways. Moreover, certain costs cannot be allocated at the level of the product, but depend on the choices and behavior of the consumer⁵ and thus cannot be included in a common cost metric for the product.

The question rises whether the costs of different products are comparable, due to their different nature. This shows the limitation of information documents, which can only summarize the costs. It also highlights the crucial role of the distributor in explaining the differences between products and their costs to the consumer.

(39) How can retail investors be aided in making 'value for money' comparisons between different PRIPs?

The consumer needs certain specific product information in order to make a 'value for money' comparison. It is not only the cost of the product that should play a part in the comparison, this might even be misleading to the consumer, since this suggests that all products offer exactly the same risks and benefits, which is not the case.

It is important to inform the consumer of the different elements a product offers, such as the possibility to take out a death cover, the level and the kind of risk the product exposes the customer to, the investment options and the flexibility available, whether or not certain fiscal rules or advantages apply... We refer to the items listed in our answer to question 20 for the different elements that are important for a customer to understand an insurance PRIP and to be able to compare it to other products.

As mentioned in our answer to question 38 the distributor plays an important role in helping the consumer to understand the product and in helping him to compare it to other products.

⁵ For example, which fund or combination of funds a consumer chooses.

(40) Do you consider that performance information should always be included in a KIID?

Projections about the future performance of the underlying investment funds of unit-linked life insurance products are to some extent prohibited by Belgian legislation. The “financial information sheet” only mentions past performance. The method for calculation and communication of the past performance has been standardized in order to enhance comparability between different life insurance products.

(41) What in your view will be the main challenges that will need to be addressed in ensuring performance information can be compared between different PRIPs?

It is important to note that projections about the future performance of the underlying investment funds of unit-linked life insurance products are to some extent prohibited by Belgian legislation.

The main challenge will be to standardize the method of calculation and the method of communication of the past performance on the key information document.

(42) Do you agree that a consistent approach to the description of guarantees and capital protection in the KIID should be sought, e.g. through detailed implementing measures, for different PRIPs?

It should be clear to the consumer what kind of guarantee or capital protection a product offers in order to be able to make an informed decision. Therefore it is important that there is a consistent approach with regard to the description of the guarantee(s) or capital protection and the party or parties offering the guarantee(s) or capital protection.

In some cases, whether or not the product offers a guarantee or capital protection can be more important than the risk rating of the underlying funds. Risk indicators do not and cannot always take these elements into account.

(43) What information should be provided to retail investors on the cost of guarantees?

More important than information about the “cost” of guarantees, is a good description of the guarantees. The consumer needs to understand what kind of guarantee is offered, since this is essential information for a retail investor.



Annex



Financial info sheet
Life insurance

KBC-Life Privileged Portfolio

<p>Type of life insurance</p>	<p>KBC-Life Privileged Portfolio¹ is a <u>class-23 life insurance</u> that does not have a guaranteed return, but instead the return is linked to <u>investment funds</u>.</p> <p>In more concrete terms this means that one can choose from <u>fifteen</u> funds that each have their own investment strategy and potential return. These funds mainly invest in shares, bonds, liquid assets, real estate or a specific combination of these items. In addition, there is the possibility to take out <u>term insurance</u>, in which case the insured party itself chooses the <u>beneficiary</u> who will receive the built-up assets in the event of the insured party's death.</p> <p>Importantly, KBC-Life Privileged Portfolio offers <u>flexibility</u>. Changing funds is possible at any moment. Both one-off and regular deposits are possible and the assets remain available at all times. It is always possible to withdraw the full sum or part thereof (or multiple withdrawals can be planned for a certain period). Customers can always ask to have the supplementary cover adapted to specific circumstances.</p>
<p>Covers²</p>	<p><u>Main cover:</u></p> <p>In the event of death of the insured person, the reserve (market value) will be paid to the beneficiary/beneficiaries.</p> <p><u>Supplementary covers:</u></p> <p>The reserve paid in the event of death can be supplemented as follows – subject to payment of the applicable premiums:</p> <p><u>In the event of death:</u></p> <ul style="list-style-type: none"> – <u>by</u> a certain amount (minimum EUR 10.000); – <u>by</u> a certain percentage (minimum EUR 1.250); – <u>up</u> to a certain amount of capital. <p>The acceptance of the supplementary death cover may be made dependant on the favourable outcome of a medical examination.</p> <p><u>In the event of death due to an accident:</u></p> <ul style="list-style-type: none"> – <u>by</u> an additional payment of once the normal amount paid in the event of death.
<p>Target group</p>	<p>KBC-Life Privileged Portfolio is a class-23 life insurance of which the return is linked to investment funds and which is specifically aimed at wealthy customers due to the minimum entry threshold.</p>

1 This financial information sheet describes the product modalities which are applicable on 30 November 2010.

2 A table containing the premium rates for term insurance can be obtained free of charge from the KBC intermediaries.

<p>Funds</p> <p>= combination of: shares, bonds, liquid assets, real estate, ...</p> <p>= based on KBC Investment strategy for the applicable risk profile</p>	<p>KBC-Life PP Defensive <u>Composition/ Investment politics</u> KBC-LIFE PRIVILEGED PORTFOLIO DEFENSIVE is an internationally spread portfolio, mainly bonds, supplemented with shares, real estate, liquid assets and alternative investments. <u>Risk class:</u> 2 <u>Risk profile:</u> defensive</p> <p>KBC-Life PP Protected 95 (May / November/ February/ August) <u>Composition/ Investment politics</u> KBC-LIFE PRIVILEGED PORTFOLIO PROTECTED 95 is invested in an internationally diversified portfolio of equities, bonds, real estate certificates, real estate shares and real estate funds, alternative investments or hedge funds; and/or repayable-on-demand or callable deposits at credit institutions, money market instruments or short-term securities, with a maximum residual term to maturity of one year and expressed in euros. plus protection mechanism: annual determination of a protection level of 95% (April / October / January / July), but this protection does not form a guarantee <u>Risk class:</u> 1 <u>Risk profile:</u> defensive</p> <p>KBC-Life PP Dynamic <u>Composition/ Investment politics</u> KBC-LIFE PRIVILEGED PORTFOLIO DYNAMIC is invested Internationally spread portfolio, mainly shares and bonds, supplemented with real estate, liquid assets and alternative investments <u>Risk class:</u> 3 <u>Risk profile:</u> dynamic</p> <p>KBC-Life PP Protected 90 (May / November/ February/ August) <u>Composition/ Investment politics</u> KBC-LIFE PRIVILEGED PORTFOLIO PROTECTED 90 is invested in an internationally diversified portfolio of equities, bonds, real estate certificates, real estate shares and real estate funds, alternative investments or hedge funds; and/or repayable-on-demand or callable deposits at credit institutions, money market instruments or short-term securities, with a maximum residual term to maturity of one year and expressed in euros. plus protection mechanism: annual determination of a protection level of 90% (April / October / January / July), but this protection does not form a guarantee <u>Risk class:</u> 2 <u>Risk profile:</u> dynamic</p> <p>KBC-Life PP Highly Dynamic <u>Composition/ Investment politics</u> KBC-LIFE PRIVILEGED PORTFOLIO DYNAMIC is invested in an</p>
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	<p>internationally spread portfolio, mainly shares, supplemented with bonds, real estate, liquid assets and alternative investments</p> <p>Risk class: 3 Risk profile: dynamic</p> <p>KBC-Life PP Protected 85 (May / November/ February/ August) Composition/ Investment politics</p> <p>KBC-LIFE PRIVILEGED PORTFOLIO PROTECTED 85 (May / November/ February/ August) is invested in an internationally diversified portfolio of equities, bonds, real estate certificates, real estate shares and real estate funds, alternative investments or hedge funds; and/or repayable-on-demand or callable deposits at credit institutions, money market instruments or short-term securities, with a maximum residual term to maturity of one year and expressed in euros.</p> <p>plus protection mechanism: annual determination of a protection level of 85% (April / October / January / July), but this protection does not form a guarantee</p> <p>Risk class: 3 Risk profile: dynamic</p> <p>The above-mentioned funds are managed by KBC Asset Management.</p> <p>Investment objective</p> <p>KBC-Life Privileged Portfolio funds seek to maximise return, see the terms set out above.</p> <p>There are 7 risk classes, with 0 representing the lowest risk and 6 the highest</p>																																										
<p>Return</p>	<p>The return depends on the investment results and the value evolution of the funds. The insurance company does not provide any return guarantees and the value of the reserve can therefore fluctuate over time. The financial risk involved is fully borne by the policyholder. Profit sharing does not apply in this case.</p> <p>The lower limit for protected funds is determined for the first year on the basis of the initial inventory value, while for the subsequent years the determination occurs on the last bank working day of April (Protected May), October (Protected November), January (Protected February) and July (Protected August).</p>																																										
<p>Past returns</p>	<table border="1"> <thead> <tr> <th colspan="6">Returns</th> </tr> <tr> <th>KBC-Life PP</th> <th>over 1 year</th> <th>over 3 years</th> <th>over 5 years</th> <th>since the start</th> <th>start date</th> </tr> </thead> <tbody> <tr> <td>Defensive</td> <td>10.86%</td> <td>-1.59%</td> <td>0.89%</td> <td>-0.27%</td> <td>16 July 2001</td> </tr> <tr> <td>Dynamic</td> <td>13.51%</td> <td>-5.15%</td> <td>-0.25%</td> <td>-1.96%</td> <td>16 July 2001</td> </tr> <tr> <td>Highly Dyn</td> <td>17.45%</td> <td>-8.55%</td> <td>-1.39%</td> <td>-3.95%</td> <td>16 July 2001</td> </tr> <tr> <td>Prot. May 95</td> <td>13.30%</td> <td>2.51%</td> <td>3.02%</td> <td>3.64%</td> <td>23 Apr. 2004</td> </tr> <tr> <td>Prot. May 90</td> <td>15.78%</td> <td>-0.03%</td> <td>2.56%</td> <td>3.47%</td> <td>23 Apr. 2004</td> </tr> </tbody> </table>	Returns						KBC-Life PP	over 1 year	over 3 years	over 5 years	since the start	start date	Defensive	10.86%	-1.59%	0.89%	-0.27%	16 July 2001	Dynamic	13.51%	-5.15%	-0.25%	-1.96%	16 July 2001	Highly Dyn	17.45%	-8.55%	-1.39%	-3.95%	16 July 2001	Prot. May 95	13.30%	2.51%	3.02%	3.64%	23 Apr. 2004	Prot. May 90	15.78%	-0.03%	2.56%	3.47%	23 Apr. 2004
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	Prot. Nov. 95	8.55%	1.16%	2.24%	2.80%	29 Oct. 2004
	Prot. Nov. 90	9.60%	-1.78%	1.47%	2.26%	29 Oct. 2004
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	Prot. Feb. 95	10.37%	1.98%	2.78%	3.00%	28 Jan. 2005
	Prot. Feb. 90	12.98%	0.00%	2.54%	2.92%	28 Jan. 2005
	Prot. Feb. 85	16.92%	-1.24%	2.79%	3.23%	28 Jan. 2005
	Prot. Aug. 95	6.84%	-0.46%		1.21%	29 July 2005
	Prot. Aug. 90	8.35%	-3.37%		0.32%	29 July 2005
	Prot. Aug. 85	11.87%	-5.55%		-0.16%	29 July 2005
	<p>* Returns are stated on an annual basis. Past returns do not provide any guarantees for the future. For the calculation of returns, we have calculated the return over the 1 year prior to 30 June 2010, the return of the 3 years prior to 30 June 2010, the return of the 5 years prior to 30 June 2010 and over the period from the start date up to 30 June 2010, respectively.</p> <p>The return depends on the investment results and the value evolution of the funds.</p>					
Costs	<p><u>Entry fee</u> 3% per deposit (which is subtracted from the subscription amount).</p> <p><u>Management fee</u> The management fee that applies to the above-mentioned funds is up to 1% per fund per year. The insurance company reserves the right to adjust the management fee for the funds. At the moment the effective management fee charged per year per fund is 0.25% for the funds KBC-Life Privileged Portfolio Defensive, KBC-Life Privileged Portfolio Dynamic and KBC-Life Privileged Portfolio Highly Dynamic and 0.75% for the funds KBC-Life Privileged Portfolio Protected. For funds that invest in other underlying funds, a management fee may also apply for these underlying funds. This management fee is already included in the inventory value.</p> <p><u>Surrender compensation</u> No surrender compensation applies.</p> <p><u>Costs upon transfer of funds</u> (= costs upon change of funds). Depending on the policyholder's risk profile he chooses from the fund offering. It is possible at any moment to (fully) transfer the already built-up reserve linked to a specific fund to another available fund free of charge.</p>					
Affiliation/ registration	<ul style="list-style-type: none"> - At any time. - The conversion into units occurs on the basis of the inventory value of no later than the third bank working day following the receipt of the premium deposits by the insurer. 					

Term	<ul style="list-style-type: none"> – The insurance ends in the event of the death of the insured party. – Indefinite term. – With a view to the risks associated with investment funds, KBC-Life Privileged Portfolio is a <u>long-term investment insurance</u>.
Inventory value	<ul style="list-style-type: none"> – The inventory value is determined on each bank working day. – The values of the units are available on a daily basis from KBC's intermediaries.
Premium	<p><u>Capital formula</u> (investment formula with free deposits)</p> <ul style="list-style-type: none"> – Minimum deposit: EUR 50,000 (including tax and costs) <p><u>Budget formula</u> (saving formula with regular deposits)</p> <ul style="list-style-type: none"> – At least EUR 1,000 per deposit (including tax and costs) with an initial deposit of at least EUR 50,000 (including tax and costs)
Tax system	<p>No advance levy on income derived from securities. For new deposits, Belgian residents are subject to an insurance tax of 1.1%. For legal entities this percentage is 4.4%. Premiums do not qualify for tax relief</p>
Surrender/ withdrawal	<p><u>Partial surrender/withdrawal</u></p> <ul style="list-style-type: none"> – Minimum amount per request is EUR 1,250. – Minimum remaining reserve EUR 1,235. <p><u>Planned partial surrender</u></p> <ul style="list-style-type: none"> – It is possible to request several withdrawals at once. – Frequency: monthly, three-monthly, six-monthly, annually. – Withdrawn amount: at least EUR 100. – Term per withdrawal: for a period of one, two or three years. <p><u>Full surrender/withdrawal</u></p> <ul style="list-style-type: none"> – Full surrender can be initiated at any time.
Transfer of funds	<p>Depending on the policyholder's risk profile he chooses from the fund offering. It is possible at any moment to (fully) transfer the already built-up reserve linked to a specific fund to another available fund free of charge.</p>
Information	<p>For each deposit of EUR 1,235 or more the policyholder will receive a letter of confirmation. Once a year you will receive a statement informing you extensively about your investment insurance. The complete text of the management regulations has legal value and is available free of charge from the KBC intermediary and from the website.</p>

Response of the German Insurance Association (GDV)¹
(ID number: 6437280268-55) to the

**Consultation by Commission Services on legislative steps for
the Packaged Retail Investment Products initiative**

Preliminary Remark

The GDV highly appreciates the opportunity to contribute to the European Commission's work on the Packaged Retail Investment Products (PRIPs) initiative. Given the complexity of the 43 questions included in the consultation paper and given their relevance for the German insurance industry the GDV will continue to constructively accompany the initiative in the post-consultation period.

The GDV wishes to stress that the comments contained in this document should be considered in the context of the GDV's overall position and therefore read in conjunction with the comments made in its response to the Commission's concurrent consultation on the revision of the Insurance Mediation Directive (IMD).

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¹ The German Insurance Association (GDV) is the umbrella organization for private insurers in Germany. Its 469 member companies, with approx. 228,000 employees and trainees, offer comprehensive coverage and provisions to private households, trade, industry and public institutions through more than 430 million insurance contracts. As a risk taker and major investor (with an investment portfolio of about EUR 1,170 billion), private insurance companies are of vital importance to the German economy with respect to investments, growth and employment.

1. Scope

Q. 1: Should the PRIPs initiative focus on packaged investments? Please justify or explain your answer.

The term “packaged investments” is not self-explanatory at all. The consultation document implicitly applies a 3-layered approach for the definition of a PRIP. It consists of the following elements:

- Layer 1: Abstract definition of PRIPs (consultation document p. 6 bottom);
- Layer 2: Additional interpreting explanations and complementary comments on this abstract definition which address, inter alia, certain product types and characteristics (consultation document p. 7);
- Layer 3: Explicit exemptions from the scope of future PRIP legislation (deposits, pensions).

Of course, a potential “indicative list” mentioned in question 13 would constitute a fourth layer of the definition of PRIPs.

In order to answer question 1 all layers of the definition have to be considered in detail. This is what we do in our answers to the questions 2 to 13.

Q. 2: Should a definition of PRIPs focus on fluctuations in investment values? Please justify or explain your answer.

In our view, it is key to limit the focus on products where a contractually agreed direct link between a benefit or payout of the product in question and the development of a certain reference value exists. The latter can be either a mutual investment fund, a security or an index (see our response to question 4).

Q. 3: Does a reference to indirectness of exposure capture the 'packaging' of investments? Please justify or explain your answer.

No. This reference is too vague. In our view a necessary criterion for "packaging" is the existence of a contractually agreed direct link between a benefit or payout of the product in question and the development of a certain reference value. The latter can be either a mutual investment fund, a security or an index.

Q. 4: Do you think it is necessary to explicitly clarify that the definition applies to fluctuations in 'reference values' more generally, given some financial products provide payouts that do not appear to be linked to specific or tangible assets themselves, e.g. payouts linked to certain financial indices, the rate of inflation, or the overall value of a fund or business?

Such a clarification could be useful. The term “fluctuation in reference values” should be complemented by the qualifying condition that there has to be a contractually agreed link to any concrete “reference value” which can be either a mutual investment fund, a security or an index.

Q. 5: Do you have any other comments on the proposed definition? If you consider it ineffective in some regard, please provide alternatives and explain your rationale in relation to the criteria for a successful definition outlined above.

1) Comments on layer 1 of the PRIPs definition (abstract definition of PRIPs)

In our view, the definition of a PRIP proposed in the Consultation on legislative steps for the PRIPs initiative is too broad. As recognized in point 2.4 of the Consultation, the abstract definition of PRIPs under point 2.3 of the consultation "might encompass financial products which are not targeted by this initiative, such it may be proportionate to consider explicitly excluding certain types of product in the future legal texts – most likely on Level 1".

In our view, it makes more sense to have a narrower and more clear-cut layer 1 definition of PRIPs, thus avoiding the need of excluding at a later stage many types of products which clearly should not be targeted by this initiative (see below).

2) Comments on layer 2 of the PRIPs definition (definition of insurance PRIPs)

The consultation document addresses life insurance as follows:

“Pure protection products would not be covered since they do not have a surrender value. Other insurance products would not be covered where any surrender value offered is not wholly or partially exposed, directly or indirectly, to market fluctuations. On the other hand, the range of insurance products caught would include those whose surrender values are

determined indirectly by returns on the insurance companies own investments or even the profitability of the insurance company itself.”
(Consultation document, p. 7)

An alternative proposal for a layer 2 definition - relying on the same layer 1 definition - has been made by the 3L3 Task Force on PRIPs:

“Task Force members agree that the above-mentioned definition of PRIPs would (and should) exclude, for example ... life insurance policies, where *the exact amount payable to the beneficiaries in case of death, survival or withdrawal is predetermined and fixed in the contract.*”
(p. 12, para 49 of the report)

In our view, the layer 2 exclusion provided by the 3L3 Task Force does better justice to the nature of insurance than the one proposed by the European Commission. We strongly agree with the 3L3 Task Force that the exemption for life insurance should mainly focus on maturity of the contract, i. e. the cases of life and death and not on the withdrawal case only. Also life insurance policies covering the third biometrical risk, i. e. disability should be excluded.

We see traditional life insurance products as offered in the German market as clearly out of the scope of the future PRIP legislation: There is no contractually agreed direct link between the benefit and the development of a certain reference value (see our response on questions 2, 3, 4). Accordingly, there is no need for additional consumer information in this regard. It would only give the misleading impression that the consumer could choose between different types of investments.

For traditional life insurance, the guaranteed sum insured is laid down in the insurance contract and has to be provided irrespective of the investment income actually earned. In return for this conditional promise to provide a benefit the customer pays a premium. The constitutive feature of traditional life insurance products as offered in the German market is the insurance element and not an “investment purpose”. It is the insurance company and not the insured who bears the risk.

Traditional life insurance products as offered in the German market are characterized by a surrender value according to paragraph 169 para 3 VVG (German insurance contract law). The latter is guaranteed independently of potential “fluctuations in the market value of assets.”

Benefits at maturity as well as the guaranteed surrender value can be enhanced by a surplus. The latter is generated by 3 different sources:

1. the mortality result (i.e. the deviations of the actual death benefits from those calculated in advance;
2. lower than expected administration costs,
3. investment returns: it has to be recognized that book values of the insurers' assets (as opposed to market values) are here a determining factor.

By the way the surplus is distributed to the insureds an equalization or smoothing is effected, both between members of one cohort and between different cohorts of insureds. Hence, also with regard to the surplus, there is no contractually agreed direct link between the benefit and the development of a certain reference value (see our response on questions 2, 3, 4).

Finally, we would like to comment on the remark that also products, where payouts are "determined indirectly by returns on the insurance companies own investment or even the profitability of the insurance company itself", might be PRIPs (p. 7). From our perspective, this line of reasoning is inconsistent with the current layer 1 definition for PRIPs proposed by the European Commission. The development of the "profitability of the insurance company" and "fluctuations in the market value of assets or payouts from assets" cannot be equalized. And as to the company's own investments, of course, a contractually agreed direct link between the benefit of a specific product and the development of a certain reference value is lacking.

Q. 6: Should simple (non-structured) deposits be excluded from the scope of the initiative? Please justify or explain your answer.

-

Q. 7: Do you consider option 1 or option 2 preferable for achieving this? Please explain your preference, and set out an alternative if necessary, with supporting evidence.

-

Q. 8: Should such an exclusion be extended to financial instruments which might raise similar issues as deposits (e.g. bonds), and if so, how might these be defined? Please justify or explain your answer.

-

Q. 9: Should pensions be explicitly excluded from the PRIPs initiative at this stage? Please justify or explain your answer.

In its recent Green Paper on Pensions the European Commission rightly proposes to differentiate between pensions and mere savings products and enumerates three distinctive characteristics of the latter:

"It is not always clear what differentiates general saving from pensions. This raises the question whether the label 'pension' should not be restricted to a product that has certain features such as

- security and
- rules restricting access
- including a payout design which incorporates a regular stream of payments in retirement."

(Green Paper "Pensions", p. 13)

Taking reference to this Green Paper the Consultation Document on PRIPs mentions future sector-specific initiatives in the field of pensions (See pp. 9 – 10 of the consultation document). Similar announcements can be found directly in the Green Paper on Pensions (p. 15) and in the 3L3 report on PRIPs (para 71). The first EIOPA working program already includes a corresponding workstream on pensions (EIOPA draft working program, pp. 9 and 23).

In the light of these upcoming specific initiatives on disclosure and selling practices for occupational and 3rd pillar pensions the European Commission proposes to exempt pensions and annuity products from the scope of the PRIPs legislation:

"For the purposes of the PRIPs initiative, those products where the provisions of national law accord particular benefits to the client in relation to the product by virtue of its use for the purposes of retirement planning should be excluded from scope".

GDV supports this proposal, the more so as pensions are specific-purpose products which are not bought and sold at any moment in time. On the contrary: By providing biometrical risk coverage, funded occupational and 3rd pillar pensions compensate for benefit cuts in PAYG-financed pensions.

Q. 10: Should annuities be treated in the same fashion? Again, please justify or explain your answer.

Yes. Life annuities are very similar to pensions since they are held for the purpose of retirement planning. The requirement to provide “regular streams of payment in retirement” is also mentioned in the Green paper of pensions as a constitutive characteristic of pensions (Green paper on pensions, p. 13).

Q. 11: Do you have any comments on the proposed manner of achieving this exclusion?

No. We support the proposal.

Q. 12: Do you agree that variable annuities might need to be treated as a special case? If so, how should these be defined, and how do you think they should be addressed?

See our answers to questions 5 and 9.

Q. 13: Do you see benefits from such an indicative list being developed? If not, please provide alternative proposals and evidence for why these might be effective.

Given that not all products which are discussed in the consultation document as potential PRIPs are harmonised across Europe Member States should be given the option to introduce black lists. These black lists should include products which are characterized by national specificities.

Q. 14: Do you have any suggestions on the possible contents for such a list, including on how to define items placed on the list

-

Legislative approach

Q15: Should direct sales of UCITS be covered by means of including the relevant rules within the UCITS framework?

-

Q16: Do you have any comments on the identified pros and cons of this approach, and any evidence on the scale and nature of impacts (costs as well as benefits)?

The GDV supports the Commission's approach to address the sales of insurance PRIPs in the Insurance Mediation Directive (IMD). For further details, the GDV would like to refer to its contribution to the Commission's consultation on the revision of the IMD.

Disclosures

Preliminary remark on the answers to Questions 17 - 43

In Germany, not only traditional life insurance products, but also unit-linked life insurance products are, for the most part, long-term contracts serving the purpose of old-age provision. Therefore, the relevant information requirements should be regulated separately in European legislation for occupational and private pension products, as in fact already announced by the European Commission in its Green Paper on pensions and elsewhere.

With regard to our answers to Questions 17 – 43 of this Consultation, we assume that the European Commission, while choosing a separate sector-specific framework for information requirements on the one hand, wants to establish cross-sectoral convergence in this respect on the other. The difficulties involved in a wide scope are addressed separately.

From our point of view, the key elements of a European standard for information requirements with respect to life insurance contracts for old-age provision, equivalent to the KIID for UCITS funds, should be the following:

- No one-to-one application of a KIID developed for UCITS funds to insurance contracts: the characteristics of insurance products differ from those of fund products and should not be ignored (protection against biometric risks, long-term contracts, fixed contract periods etc).
- No doubling of information requirements: Unlike investment funds offered by UCITS, (life) insurance products have not been harmonized at European level and differ, inter alia, with respect to extent and level of cover of biometric risks, capital market risks for insureds, existence and type of surplus allocation or kind of benefits (lump sum/annuity payment). For this reason, the information requirements for insurance products at European level are of a very

general nature. At national level, however, there are a multitude of regulations going beyond these – therefore, integrating a KIID equivalent into the rest of information requirements is very complex. Double information due to cumulative national and European provisions should absolutely be avoided.

- An information standard equivalent to the KIID for pension products should not contain any specific information about the offer and should not be an element of the contract. This would have several advantages at the same time:
 - less problems in terms of liability;
 - easier availability (no contact with an intermediary required);
 - easier integration into national information regulations.

To achieve comparability, however, the pre-setting of data for an illustrative “model contract” would be required.

- An integrated view of costs/benefits (price-performance presentation) and risk/return (risk-return profile) is required:

It would not be appropriate to consider costs separately from benefits; therefore, the focus should be placed on a “holistic” view through a price-performance presentation.

- Prospective considerations are preferable;

The longer the investment horizon, the more unsuitable past-performance considerations are. In the area of old-age provision, long contract periods predominate – moreover, the customer focus is on prospective benefits. (What are my pension shortfalls? How much do I have to invest to fill these?);
- Restriction to essential information/no double information within the KIID equivalent;
- The restriction of pages is understandable. However, this imperatively requires restriction to the most necessary information. Moreover, double information on the same subject (e.g. presentation of costs as cost index and as detailed cost structure) should be avoided.

Q. 17: Should the design of the KIID be focused on delivering on the objective of aiding retail investment decision making? If you disagree, please justify or explain your answer.

Yes; however, this should not go as far as to drop obvious differences between products for reasons of “easier” comparability. For instance, savings products differ considerably with regard to cost structure: explicitly agreed costs (e.g. x% of the premium) vs. implicit costs (e.g. x% of a reference interest rate), guaranteed vs. non-guaranteed costs, costs charged in addition to the premium vs. costs included in the premium, performance-related costs vs. firmly agreed costs, etc. It is virtually impossible to define a “simple” cost index which properly depicts these different cost structures. This is another reason for switching to a price-performance presentation instead of an isolated cost information.

Q. 18: Should the KIID be a separate or 'stand alone' document compared with other information that might be necessary, e.g. background information, other disclosures, or contractual information? Please justify or explain your answer.

As mentioned before, incorporation into existing information requirements is extremely complex because very detailed information requirements exist at national level²; this problem can most easily be solved by separating this document from the contractual information. However, prohibiting any reference to other documents seems to go too far.

Q. 19: What measures do you think will be necessary to ensure KIID remain streamlined and focused solely on key information?

The assessment as to what information is considered to be the “most important”, “most indispensable”, etc is hardly objectifiable – one customer is only interested in costs, another only in returns opportunities, a third one in flexibility, a fourth one in tax advantages, etc. The larger the scope of cross-sectoral information requirements, the more difficult it will be to identify the real “key information” – we can only once again warn against sacrificing insurance specifics for a streamlining requirement.

² Therefore, the assertion contained in the consultation document with regard to PRIIPs “In addition, for those PRIIPs where there is no requirement for a fuller disclosure, for instance those which are insurance based, ...” (cf. 4.2) is incorrect.

Q. 20: While the same broad principles should be applied to all PRIPs, should detailed implementations of some of these principles be tailored for different types of PRIP? Please justify or explain your answer, and provide examples, where relevant, of the kinds of tailoring you might envisage.

Yes, this is imperative, even though comparability will suffer from it.

Q. 21: Do you foresee any difficulties in requiring the KIID to always follow the same broad structure (sequence of items, labelling of items)? Please justify or explain your answer.

For reasons of comparability, the requirement of a fixed sequence is obvious – however, here as well, it will be all the more difficult to find common headings the larger the scope of cross-sectoral information requirements is.³

Q. 22: Do you foresee any difficulties in requiring certain parts of the key information and its presentation (e.g. on costs, performance, risks, and guarantees) to be standardised and consistent as possible, irrespective of tailoring otherwise allowed? Please justify or explain your answer.

Yes.

a) Costs: Transforming the different cost structures into a significant cost index is very difficult. However, “only” disclosing cost structures instead cannot serve as an alternative: the information on cost structures is much too long and of no use to the average customer. A starting point are price-performance presentations through which, in particular, the different treatment of investment costs may be depicted.

b) Risk measure: Fixing a risk measure is far from being easy because there is a vast multitude of such measures. The most known and “simplest” of them is volatility, which, however, also interprets positive deviations from the average as a “risk” and, therefore, is undisputed only in the case of symmetric distributions. However, precisely complex pension contracts including guarantees are characterized by “skewed” return distributions, which are generally better described by downside-risk measures (e.g. “conditional tail expectation”). Moreover, precisely in the case of long-term pension contracts, not only the uncertainty of the maturity benefit (closing the pension shortfall), but also the fluctuations during the contract period are of great importance (“investor stress” “ vs. “saving discipline”).

³ The KIID, for instance, provides for indication of the UCITS code number. However, for life insurance products, there is no such number.

c) Historical risk and performance values: As already mentioned in an introductory manner, as a general rule, historical values are inappropriate in the case of long-maturity contracts.

d) Guarantee/security: There are a multitude of “guaranteed commitments”.

1. None at all

2. Optional guarantees (“If the xy index within the period xx xx xxxx – yy yy yyyy does not fall short of the value on zz zz zzzz by more than xx%, you will receive €..)

3. Relative performance guarantee (basic amount + xx% of the increase in value of the xy index as compared with the value on zz zz zzzz at the following dates: ...)

4. Absolute guaranteed maturity benefit: Upon expiration of the contract on zz zz zzzz, you will receive €xxxx

5. Relative guaranteed maturity benefit (analogous to 3., but at the maturity date)

6. Hybrids

Moreover, these differ with respect to the equity capital cover required and existing guarantee schemes. Taking these different forms into account in a risk-return index is anything but easy.

It is very doubtful that the average consumer is able to assess the relative value of capital guarantees. If the inexperienced consumer is used as a measure for information disclosure, as proposed by the European Commission⁴, it becomes apparent that mere disclosure from the perspective of the consumer will reach the limits of understandability. Accordingly, also the European Parliament, in its report “Asset Management II”, has rightly identified a regulatory gap for “guarantee funds”, calling upon the European Commission to present proposals for its elimination. There is no reason not to subject investment companies with respect to providing capital guarantees to rules which should raise them to a security level comparable to that of life insurance companies.

Therefore, in the further proceeding of the PRIPs initiative, the European Commission should also address the issue of cross-sectoral equivalence of own funds requirements for the provision of capital guarantees.

⁴ see Communication on PRIPs dating from 2009, pp. 4 and 10.

Q. 23: Can you provide examples and evidence of the costs and benefits from your experience that might be expected from greater standardisation of the presentation and content in the KIID?

In Germany, a standardized brief information on insurance contracts was introduced 3 years ago – experience is mainly positive.

Q. 24: Should the content of the KIID be controlled so that there is no possibility for firms to add additional information unless expressly allowed for?

The design of the KIID equivalent for life insurance products should equally take consumer and company interests into account. Thus, it seems appropriate that the KIID equivalent contains certain standard information on the one hand, while leaving enough room for company-specific statements on the other.

Furthermore, the question arises as to whether and, possibly, by whom the contents of the KIID equivalent for insurance product should be controlled. The possibility to control the contents of the KIID equivalent is required. It may contribute to ensuring the protection of the consumer, pursued by the legislative initiative, on a long-term basis. At the same time, it may render significant assistance to companies in implementing the legal requirements and in designing the KIID equivalent for insurance products.

Nonetheless, it is neither necessary nor does it lead to the desired results to set up a new controlling entity to this effect or to re-establish the competence of an already existing institution at European level. Any such procedure would not only cause considerable unnecessary costs of bureaucracy. At the same time, there would be a risk that a breeding ground for responsibility and competence conflicts will develop. The existing national control mechanisms are highly suitable for carrying out the examination of the KIID equivalent for insurance products and taking the measures required, where appropriate.

It would by no means be appropriate to provide for prior examination of the KIID equivalent for insurance products. Also for this reason, a considerable cost-intensive bureaucratic burden would have to be feared. It would rather be fair and reasonable to provide for event-related subsequent control of the design of the contents of the KIID equivalent for insurance products by neutral, national institutions, e.g. in the case of a complaint. This could be realized by already existing supervisory authorities within the scope of their supervisory activity. In Germany, for instance, in the financial services sector, this would come within the competence of

the Federal Financial Supervisory Authority (*Bundesanstalt für Finanzdienstleistungsaufsicht* - BaFin).

Q 25: Do you foresee any difficulties in applying these broad principles to the KIID for all PRIPs, as the building blocks on content and format for a 'level 1' instrument? Please justify or explain your answer.

Yes, the criteria mentioned have been kept fairly soft and leave some scope for interpretation. However, they partly correspond with the already existing information requirements for insurance products.

The limitation of pages is basically to be welcomed; however, it is potentially to the detriment of “not misleading” because it is impossible to keep the document as short as possible and as precise as possible at the same time. The limit of 2 pages would probably be very difficult to comply with for more complex products (this includes almost all life insurance products).

An Internet download should be sufficient. Of course, it is possible to deliver the document in textual form or on a data medium at the request of the consumer. With a view to the environmental impact (cf. Q. 30), the hard copy form should remain an exception.

Risks, reward, costs, performance are basically the right subjects – however, an integrated consideration is required (see preface).

Q. 26: Are there any other broad principles that should be considered on content and format?

Q. 27: Should product manufacturers be made generally responsible for preparing a KIID? Please justify or explain your answer.

Only the manufacturer of a product should be responsible for preparing the KIID equivalent for products. It alone is able to provide all information which is relevant for the customer.

The manufacturer of an insurance product is normally the respective company. Therefore, it should also be responsible for preparing the KIID equivalent for insurance products (in these cases).

Q. 28: Are you aware of any problems that might arise in the distribution of particular products should responsibilities for producing the KIID be solely placed on the product manufacturer?

With respect to pension-like insurance products, there will normally be no problems in practice.

Q. 29: If intermediaries or distributors might be permitted to prepare the documents in some cases, how would these cases be defined?

Only the manufacturer of a product should be responsible for preparing the KIID equivalent. Intermediaries are normally no manufacturers.

Q. 30: What detailed steps might be taken to improve the transparency of the social and environmental impacts of investments in the KIID for PRIPs?

Q. 31: How might greater comparability and consistency in product labeling be addressed?

-

Q. 32: Should the summary prospectus be replaced by the KIID for PRIPs? Please outline the benefits and disadvantages you see with respect to such an approach.

-

Q. 33: Should Solvency II disclosures provided prior to the investment decision be replaced by the KIID for PRIPs? Please outline the benefits and disadvantages you see with respect to such an approach.

The insurance industry has always stressed that only sectoral regulation of information requirements for insurance products is fair and reasonable. This alone sufficiently allows for the insurance-specific particularities of products. The requirements of the Solvency II Directive which are relevant for the insurance industry in this respect define a high standard, which is highly suitable for protecting the customers of the insurer against imprudent decisions. Therefore, it is neither required nor appropriate to replace these by more vaguely defined pre-contractual information requirements.

In any case, it should absolutely be avoided that information requirements contradict each other with respect to contents and binding effect. This leads to unnecessary complication of intra-company operational procedures and can ultimately not serve to provide the consumer with reliable information for his decision-making.

Q. 34: Do you agree with the suggested approach for UCITS KIIDs?

Q. 35: Are there any disclosures, e.g. required by the existing regimes, which you believe the PRIPs KIID should not include, but which should still be disclosed, e.g. separately to the KIID? Do you have any practical examples for such elements?

In Germany, there are a multitude of national provisions (information requirements according to the Insurance Contract Act [VVG], Law on Certification of Pension Contracts [AltZertG]), which, however, refer to information relating to the contract/offer. Any integration at the level of the offer would be difficult to accomplish – a more appropriate solution would be an abstract KIID equivalent for insurance products outside the contract information.

Q. 36: What in your view will be the main challenges that will need to be addressed if a single risk rating approach is to work for all PRIPs?

see Q. 22

Q. 37: Do you consider there are any other techniques that might be used to help retail investors compare risks?

More complex (i.e. two-dimensional “risk and return”) techniques should be allowed as well; by contrast, risk-neutral approaches are inappropriate.

Q. 38: What in your view will be the main challenges that will need to be addressed in developing common cost metrics for PRIPs?

s. Q. 22

Q. 39: How can retail investors be aided in making 'value for money' comparisons between different PRIPs?

As a matter of principle, a price-performance presentation can be as follows:

Performance before costs:	x%
Less costs (reduction in yield)	y%
Performance less costs	x-y%

In Germany, for pension products, this is partly also presented in this way. However, the question arises whether this can be applied to PRIPs (for instance, if no fixed contract period has been provided for at all).

Q. 40: Do you consider that performance information should always be included in a KIID?

Yes, but together with costs

Q. 41: What in your view will be the main challenges that will need to be addressed in ensuring performance information can be compared between different PRIPs?

Problems similar to those concerning the risk rating (essential: problem concerning the contract period)

Q. 42: Do you agree that a consistent approach to the description of guarantees and capital protection in the KIID should be sought, e.g. through detailed implementing measures, for different PRIPs?

see Q. 22

Q. 43: What information should be provided to retail investors on the cost of guarantees?

Here as well, a more complex presentation within the scope of detailed risk-return presentations should be allowed (cf. Q. 37).

Berlin, January 31 2011

31 January 2011

ANIA COMMENTS TO THE “CONSULTATION BY THE COMMISSION ON LEGISLATIVE STEPS FOR THE PACKAGED RETAIL INVESTMENT PRODUCTS INITIATIVE”

ANIA – *Italian association of insurers* thanks the European Commission for the opportunity to contribute to the process regarding legislative steps for the Packaged Retail Investment Products (PRIPs) initiative. Most responses are supportive of the CEA - *European insurance and reinsurance federation* position.

Scope of the PRIPs Regime

Q. 1: Should the PRIPs initiative focus on packaged investments? Please justify or explain your answer.

As a preliminary remark, ANIA thinks that any solution should safeguard the following priorities: client protection and needs, retail investment products’ transparency and the framework in which these products are in competition, which should be a clear and leveled playing field.

We ask that the PRIPs initiative is focused on packaged “investment” products where the client is financially exposed to fluctuations and potential losses of money. In other words, PRIPs scope should be limited to those products in which the financial risk is borne by the customers. Products providing a guaranteed minimum return should be excluded, even when exceeding the guarantee the payoff is exposed to financial fluctuations, since the client is protected by the guarantee, that is independent from the performance of the assets linked to the product.

The “packaging” element is not the fundamental driver to define a PRIP-product compared with a non-PRIP product is not always in line with the above-mentioned priorities. In fact, packaging does not always imply complexity: most life insurance products currently bought in Italy are packaged, but very simple in structure of the payoff and highly protective for the client: they provide at least a guaranteed minimum return (say 2%) on the capital invested on a yearly basis and possibly an extra-return, depending on the return of a segregated fund. On the overall, the client is easily informed and acquainted that his invested money will never decrease and will increase by at least 2%, since there is a contractual obligation of the insurance company to guarantee the minimum return. Due to such structure, these insurance products in Italy are in competition with fixed-rated bonds and structured or simple deposits. As a result, generally when government bonds have low performances – as it has been the case in the last couple of years – these life insurance products have proved very competitive and have experienced a remarkable increase in demand from retail clients.

Then, the inclusion of these life insurance products in the PRIPs scope just for the fact they are “packaged”, while products (bonds and deposits) in competition are non-PRIPs, seems more a formalistic solution than a substantial approach based on market evidence. As a consequence, an unnecessary different treatment and a potential distortion among products with similar features, economic function and target of (retail) customers could occur.

Even if for certain products the “packaging” element adds complexity with respect to the direct holding, you can have other products in which “packaging” permits a simple payoff, neither subject to fluctuations nor to financial risks, and a high diversification – that can be very valuable for the client, even adding simplicity compared with the direct holding of assets. Finally, the substantial structure of the payoff is more fundamental than the “packaging” in itself.

Q. 2: Should a definition of PRIPs focus on fluctuations in investment values? Please justify or explain your answer.

The “investment” element (client’s exposure to fluctuations in investment values) can be a driver to define a PRIP-product - provided that this does not determine regulatory arbitrages or unlevelled treatment with analogous products. Such element is in line with the priority to protect customers from financial exposure to uncertainty or market fluctuations. However, it is very important to set a clear definition of the “investment” element. The proposed definition in the Commission’s consultation document shows some controversial aspects. In fact, it “...would include products with capital guarantees, and those where, in addition to capital, a proportion of the return is also guaranteed. However, products where the precise rate of return is set in advance for the entire life of the product would be out of scope...” Then, such definition would:

1. consider out of the scope, for instance, an insurance product or a simple interest-bearing deposit providing a fixed and guaranteed minimum return of 1%;
2. consider in the scope an insurance product – possibly structured as well as the previous one – providing a guaranteed minimum return of 2% plus a possible extra-return, in which only the extra-return depends on market fluctuation.

As a result:

- a) very similar products would be treated differently, even in the same “family” of products;
- b) the more protective products – in the above-mentioned example the product in nr. 2., providing a higher guaranteed return and, plus, a possible extra-return – would be considered PRIPs, as they were less protective, in contradiction with the Commission’s objective;
- c) regulatory arbitrages and negative effects for customers could occur, eg. product manufacturer could choose to give a 2% fixed (then lower provisions to clients) or a 2% plus a possible extra-return based on differences in regulation more than competition.

Finally, we ask that the PRIP definition be narrowed to proper “investment” products, meaning those products in which the client is financially exposed to fluctuations and potential losses of money. In other words, the PRIPs scope should be limited to those products in which the financial risk is borne by the customers. Products providing a guaranteed minimum return should be excluded, even when exceeding the guarantee the

payoff is exposed to financial fluctuations, since the client is protected by the guarantee, that is independent from the performance of the assets linked to the product.

Q. 3: Does a reference to indirectness of exposure capture the 'packaging' of investments? Please justify or explain your answer.

Of course the reference to indirectness of exposure – namely every investment different from the 100% direct holding of the asset – and the packaging of investments are similar concepts. However, following the definition of PRIPs proposed by the Commission, you can have a packaged product (eg. a life insurance product that guarantees a 2% fixed return on an annual basis) that would not be considered a PRIP.

Q. 4: Do you think it is necessary to explicitly clarify that the definition applies to fluctuations in 'reference values' more generally, given some financial products provide payouts that do not appear to be linked to specific or tangible assets themselves, e.g. payouts linked to certain financial indices, the rate of inflation, or the overall value of a fund or business?

See answer to question nr. 2.

Q. 5: Do you have any other comments on the proposed definition? If you consider it ineffective in some regard, please provide alternatives and explain your rationale in relation to the criteria for a successful definition outlined above.

We propose the following definition:

A PRIP is a financial product or instrument where the investor bears the risk of potential losses in the amount payable, as a result of fluctuations in the market value of assets or to the payout of assets. Financial products or instruments recognized by national laws as finalized for retirement benefits provisions are excluded from the PRIP scope.

Q. 6: Should simple (non-structured) deposits be excluded from the scope of the initiative? Please justify or explain your answer.

See answer to question nr. 2.

Q. 7: Do you consider option 1 or option 2 preferable for achieving this? Please explain your preference, and set out an alternative if necessary, with supporting evidence.

See answer to question nr. 2.

Q. 8: Should such an exclusion be extended to financial instruments which might raise similar issues as deposits (e.g. bonds), and if so, how might these be defined? Please justify or explain your answer.

See answer to question nr. 2.

Q. 9: Should pensions be explicitly excluded from the PRIPs initiative at this stage? Please justify or explain your answer.

ANIA is supportive of excluding pensions from the PRIPs initiative at this stage. Due to the current developments about Green Paper on Pensions, it would be premature to include pensions within the PRIP' scope.

Q. 10: Should annuities be treated in the same fashion? Again, please justify or explain your answer.

ANIA is supportive of excluding annuities from the PRIPs scope at this stage, until further work by the Commission is done regarding pensions. Moreover, the exclusion of annuities seems to be coherent with the scope that the Commission developed about PRIPs, focused on the "capital accumulation" economic function of the PRIPs.

Q. 11: Do you have any comments on the proposed manner of achieving this exclusion?

ANIA suggests leaving it up to Member States to decide what products are regarded as pensions, since there is a huge variety in pension features between the different Member States and it is difficult to find a one-size-fits-all solution to exclude pensions.

Q. 12: Do you agree that variable annuities might need to be treated as a special case? If so, how should these be defined, and how do you think they should be addressed?

ANIA does not agree with treating variable annuities as a special case. If variable annuities are designed as pensions/annuity products for retirement purposes, they should be excluded, while if they are designed to provide a capital accumulation function having a financial exposure (risk) borne by the client, they should be included in the PRIPs scope.

Q. 13: Do you see benefits from such an indicative list being developed? If not, please provide alternative proposals and evidence for why these might be effective.

ANIA sees no benefit of an indicative list being developed, that would not be an efficient way to clarify if a product is a PRIP or not. First of all, it is unclear if this list would be a white list or a black list. Secondly, a list is in itself focused on the "label" of the product and not on the substantial underlying features. ANIA is supportive of a technical guidance including criteria, requirements and examples in order to clarify when a certain products is a PRIP or not.

Q. 14: Do you have any suggestions on the possible contents for such a list, including on how to define items placed on the list?

See answer to question nr. 13.

Legislative approach to be taken in delivering the PRIPs regime

Q. 15: Should direct sales of UCITS be covered by means of including the relevant rules within the UCITS framework?

ANIA believes that any solution regarding UCITS should not determine regulatory arbitrages or unlevelled treatment with any insurance product included in the PRIPs scope.

Q. 16: Do you have any comments on the identified pros and cons of this approach, and any evidence on the scale and nature of impacts (costs as well as benefits)?

See answer to question nr. 15.

A new pre-contractual product disclosure instrument

Q. 17: Should the design of the KIID be focused on delivering on the objective of aiding retail investment decision making? If you disagree, please justify or explain your answer.

ANIA agrees that the PRIP-KIID should be designed in a user-friendly format to facilitate the decision-making process for the consumer. However, ANIA thinks that it is important that the proposal to have a short document should not come at the expense of the level of understanding of the products for the consumer. We believe that fixing a specific length to the PRIP-KIID is not necessary and may not allow it to comply with different products. Then, a particular attention has to be paid with regard to the PRIP-KIID format or length and its possibility to be easily adapted to insurance PRIPs. We believe that the PRIP-KIID should rather provide for an outcome-based approach, focusing on enabling retail clients to make informed decisions. This way, firms are able to adapt the PRIP-KIID to their practice.

Q. 18: Should the KIID be a separate or 'stand alone' document compared with other information that might be necessary, e.g. background information, other disclosures, or contractual information? Please justify or explain your answer.

Considering possible insurance PRIPs, there is a wide variety of e.g. unit-linked life insurance products available to customers. Some may be linked to some underlying funds while other may be linked to hundreds of funds, thus all offering a considerable number of different combinations in the same “umbrella” product to the choice and discretion of the customer. Then, it is necessary to separate pre-contractual disclosures at the level of the product from those at the level of the underlying funds linked to the product.

According to the product level, ANIA is supportive of the CEA KIC checklist, attached to the CEA response to the consultation. It is important to stress that the KIC should not merely be another document added to the existing number of client documents. It should form part of the pre-contractual information (and not come in addition to it), in order to ensure that there is no duplication of similar disclosure requirements between different instruments.

In any case, ANIA believes that any standardised disclosure format for insurance PRIPs should be flexible enough to manage any structure of insurance PRIPs.

Q. 19: What measures do you think will be necessary to ensure KIID remain streamlined and focused solely on key information?

In line with the CEA position and as a general measure, ANIA believes, that KIID should be structured on key information and features of the products – namely on essential information for a decision making process – and should include references or annexes regarding detailed information on underlying assets and other detailed pre-contractual information. Besides, ANIA believes that any user-friendly disclosures

format must be sufficiently flexible to enable innovation and the adaptation of specificities in product features.

Q. 20: While the same broad principles should be applied to all PRIPs, should detailed implementations of some of these principles be tailored for different types of PRIP? Please justify or explain your answer, and provide examples, where relevant, of the kinds of tailoring you might envisage.

ANIA agrees with the Commission's 2-level approach: to establish high-level principles to assure horizontal consumer protection for all PRIPs in level 1, and specific disclosure requirements for specific product features, as it is the case for insurance products, in level 2. We also agree with having a short and simple document, but we do not believe that prescribing a set number of pages for the PRIP-KIID is appropriate.

Q. 21: Do you foresee any difficulties in requiring the KIID to always follow the same broad structure (sequence of items, labeling of items)? Please justify or explain your answer.

ANIA would foresee difficulties in requiring format rigorously following the same structure, as this would deny the possibility to adapt it to product specificities. In addition, a too prescriptive approach would hinder innovation. At this purpose, ANIA is supportive of the KIC checklist solution proposed by the CEA (attached to the CEA response), that provides for sufficient flexibility to enable innovation and the adaptation of information contents to product specificities.

Q. 22: Do you foresee any difficulties in requiring certain parts of the key information and its presentation (e.g. on costs, performance, risks, and guarantees) to be standardized and consistent as possible, irrespective of tailoring otherwise allowed? Please justify or explain your answer.

ANIA believes that since different PRIPs have different product features, any attempt to standardize information needs to leave sufficient flexibility for considering product specificities. Stiff and inflexible standardization would otherwise bear the risk of potentially misleading customers. ANIA agrees to have overall objectives and requirements of disclosure across all product segments in a principle-based way and to leave room for "Level 2" specific measures, where this is required, in the interests of retail customers.

For insurance PRIPs, any approach at EU level should permit customers the assessment of specific product features. If the KIID for UCITS is the benchmark, it must be taken into consideration that insurance PRIPs are distinct from UCITS, e.g.. due to biometric risk coverage, duration of contracts or cancellation rights. We therefore strongly recommend tailoring information to capture the essential and distinct features of a given product so as to enable consumers to understand and compare investment products, thus empowering them to take an informed decision.

Q. 23: Can you provide examples and evidence of the costs and benefits from your experience that might be expected from greater standardization of the presentation and content in the KIID?

ANIA has no quantitative evidence of the benefits that might be expected from standardization of the content of PRIPs information document. However, we believe that the process should be the right occasion to improve presentation, comprehension and transparency of products, even reducing administrative burdens to set too long information documents.

Q. 24: Should the content of the KIID be controlled so that there is no possibility for firms to add additional information unless expressly allowed for?

ANIA believes that any disclosure format should provide for sufficient flexibility to enable innovation and the adaptation of information contents to product features, while at the same time allowing for comparability between PRIPs. Although a rigidly standardized format for the KIID (i.e. order, wording, methodology, etc.) enables the consumer to make comparisons, it could be too prescriptive for products having certain peculiarities. While standardiation helps comparison, an excessively high level of prescriptiveness could impose unnecessary additional requirements on operators and could result in potential misunderstandings for the customers.

In our opinion, the CEA KIC (attached to the CEA response to the consultation) provides for such a balanced approach. It contains the minimum list to comply with, thus allowing national standards to include further information. In that respect, we stress that the KIC should not merely be another document added to the existing number of client documents. It should form part of the pre-contractual information (and not come in addition to it), in order to ensure that there is no duplication of similar disclosure requirements between different instruments.

In light of the above we strongly believe, in line with CEIOPS/EIOPA position, that the PRIP-KIID should not require any prior approval of the relevant authorities, as it would give rise to unnecessary administrative burden.

Q 25: Do you foresee any difficulties in applying these broad principles to the KIID for all PRIPs, as the building blocks on content and format for a 'level 1' instrument? Please justify or explain your answer.

See answers to questions nr. 18-24.

Q. 26: Are there any other broad principles that should be considered on content and format?

See answers to questions nr. 18-24.

Q. 27: Should product manufacturers be made generally responsible for preparing a KIID? Please justify or explain your answer.

We agree that there should be a clear split of responsibilities between product manufacturers and distributors. The product originator should be responsible for the provision of updated and correct KIID to the distributor.

Q. 28: Are you aware of any problems that might arise in the distribution of particular products should responsibilities for producing the KIID be solely placed on the product manufacturer?

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Q. 29: If intermediaries or distributors might be permitted to prepare the documents in some cases, how would these cases be defined?

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Q. 30: What detailed steps might be taken to improve the transparency of the social and environmental impacts of investments in the KIID for PRIPs?

-

Q. 31: How might greater comparability and consistency in product labelling be addressed?

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Q. 32: Should the summary prospectus be replaced by the KIID for PRIPs? Please outline the benefits and disadvantages you see with respect to such an approach.

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Q. 33: Should Solvency II disclosures provided prior to the investment decision be replaced by the KIID for PRIPs? Please outline the benefits and disadvantages you see with respect to such an approach.

ANIA believes that for insurance PRIPs, Solvency II disclosures provided prior to the investment decision should be replaced by the new PRIPs provisions. This would ensure that there is no duplication of similar disclosure requirements between different instruments.

Q. 34: Do you agree with the suggested approach for UCITS KIIDs?

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Q. 35: Are there any disclosures, e.g. required by the existing regimes, which you believe the PRIPs KIID should not include, but which should still be disclosed, e.g. separately to the KIID? Do you have any practical examples for such elements?

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Q. 36: What in your view will be the main challenges that will need to be addressed if a single risk rating approach is to work for all PRIPs?

Referring to insurance PRIPs, the inclusion of a single SRRI is not possible at product level. Referring to underlying assets funds, ANIA thinks that SRRI methodology - as it has been illustrated for UCITS KIID – should be completed for taking into account products specificities, such as all elements mitigating risk (e.g. financial guarantees at product level, guarantees in case of death, dynamic asset allocation like “life-cycle” approaches).

Q. 37: Do you consider there are any other techniques that might be used to help retail investors compare risks?

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Q. 38: What in your view will be the main challenges that will need to be addressed in developing common cost metrics for PRIPs?

Insurance PRIPs can have costs at product level (e.g.. entry and exit costs) and costs at underlying fund level (e.g.. “on-going charges” or “performance fees”), then the main challenge is to provide enough information on costs potentially split at product and fund level and regarding a potential high number of investment options.

Q. 39: How can retail investors be aided in making 'value for money' comparisons between different PRIPs?

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Q. 40: Do you consider that performance information should always be included in a KIID?

ANIA thinks that the information about past performances should be complemented by an appropriate warning about the fact that past returns must not be considered as expectations for future performances. However, in case of material changes (change in investment objective/policy of the fund, change in asset managers), past performance relates to a situation that is no longer applicable.

Q. 41: What in your view will be the main challenges that will need to be addressed in ensuring performance information can be compared between different PRIPs?

The past performance of underlying assets funds cannot be disclosed at the level of the product, but only at the level of the underlying assets funds. This can be done via the KIID-like formats if they exist and, in such a case, following the applicable rules and methodology on past performance for the KIID-like format for UCITS and other investments so as to ensure comparability.

Q. 42: Do you agree that a consistent approach to the description of guarantees and capital protection in the KIID should be sought, e.g. through detailed implementing measures, for different PRIPs?

ANIA wishes to stress the fact that information about “guarantees” is important to help consumers understand the quality and value of the capital protection behind the product they purchase. For insurance products, the inherent value of any capital guarantees provided by life insurance companies is ensured by the contractual obligation to provide that guarantee in any case, and by stringent solvency requirements to the benefit of consumers.

Q. 43: What information should be provided to retail investors on the cost of guarantees?

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1. Introduction

ACA is pleased to participate in the European Commission's consultation on PRIIP's and thus to have the opportunity to express its view to this important topic on the EC agenda. The answers should be read in conjunction with the open consultation on the review of the Insurance intermediation directive (IMD2).

ACA stands for « Association des Compagnies d'Assurances du Grand-Duché de Luxembourg ». It is the national association of insurance companies located in Luxembourg and doing business in Luxembourg and in freedom of service in the other member states.

ACA can be contacted at aca@aca.lu.

2. Scope

Q. 1: Should the PRIPs initiative focus on packaged investments? Please justify or explain your answer.

The initial idea of the PRIP's initiative was more about protection for retail investors being indirectly exposed to financial risk they might not have been aware of at subscription, because the disclosure regime of the "packaging instrument" did not ensure as much disclosure as the regime of what has been packaged. Indirect exposure to investment risks might give need for a more efficient consumer protection in areas where the level of protection might not be effective enough under present provisions. The PRIP's initiative should however put again more emphasis on the initial approach, rather than creating universal disclosure regime for nearly all financial instruments. For instruments where no detailed disclosure regime is in force on European level, the one size fits all approach is not eligible to duly reflect the specificities of the various instruments. Any excessive and exuberant expansion of the scope of application should be avoided and a clear focus should be put on avoiding any kind of consumer detriment by the packaging of financial instruments. It should not be part of PRIP's to ensure a minimum disclosure regime for all products, but to ensure that the disclosure regime applicable to packaged instruments will be applied regardless the industry providing or the distribution channel.

The initiative should thus be limited to products exposing consumers to an indirect exposure to undisclosed investment risks.

Q. 2: Should a definition of PRIPs focus on fluctuations in investment values? Please justify or explain your answer.

Fluctuations in investment values are a part of the risk related to the financial instrument and therefore may increase the impact of possible consumer detriment. The simple exposure to fluctuations in market value is, however, no consumer detriment in itself, In the case of life insurance contracts where the insurance undertaking guarantees the payment of a sum the fluctuation in market values aspect is absent. Life insurance products with a guaranteed insurance sum (guarantee given by the insurance undertaking) are therefore to be clearly excluded from the scope of the PRIP's initiative.

Q. 3: Does a reference to indirectness of exposure capture the 'packaging' of investments? Please justify or explain your answer.

ACA agrees that indirect exposure would well capture the "packaging" element.

Q. 4: Do you think it is necessary to explicitly clarify that the definition applies to fluctuations in 'reference values' more generally, given some financial products provide payouts that do not appear to be linked to specific or tangible assets themselves, e.g. payouts linked to certain financial indices, the rate of inflation, or the overall value of a fund or business?

The definition should be clear enough to not give room to interpretations and legal uncertainty.

Q. 5: Do you have any other comments on the proposed definition? If you consider it ineffective in some regard, please provide alternatives and explain your rationale in relation to the criteria for a successful definition outlined above.

The definition is way too broad and not necessarily in line with the initial aim of the PRIP's initiative. When a traditional life insurance product with guaranteed returns provides for a share in the returns of the insurance undertaking on top of the guaranteed returns, the inclusion in the definition is not justifiable. The very nature of such a product does not change. Instruments which create an interest payment, whether variable or fixed should be excluded from the definition.

The PRIP's definition should be narrow enough, to not create additional unnecessary administrative burden for the market participants. Regarding UCITS for example, creating a KIID in addition to the KII seems to be only burdensome but no help for the customer. For life insurance products as well, in many jurisdictions pre-contractual disclosure in form of a short summary does already exist in addition to the pre-contractual disclosure which did derive from directive 2002/83/EC.

The suggested definition is not clear enough for insurance products with a guaranteed insured sum (guaranteed by the insurance undertaking) with possible profit sharing. These products should be clearly out of scope such as pure risk protection insurances. These products are generally not linked to underlying values but to the performance of the insurance company.

Q. 6: Should simple (non-structured) deposits be excluded from the scope of the initiative? Please justify or explain your answer.

Q. 7: Do you consider option 1 or option 2 preferable for achieving this? Please explain your preference, and set out an alternative if necessary, with supporting evidence.

Q. 8: Should such an exclusion be extended to financial instruments which might raise similar issues as deposits (e.g. bonds), and if so, how might these be defined? Please justify or explain your answer.

Given a not amended PRIP's definition, all instruments which in the one or the other form create interest payments, and only the amount of the interest return is subject to market fluctuations, should be excluded.

To ensure a level playing field between competitors other products should not be excluded from the scope of the initiative.

Q. 9: Should pensions be explicitly excluded from the PRIPs initiative at this stage? Please justify or explain your answer.

Pensions are regulated by specific legislative provisions. They should thus be explicitly out of scope from the PRIP's initiative. Thereby "pensions" should include all products for old age provision. These products are generally subject to very specific national regulation, which could hardly be subsumed under the one-fits-all approach by PRIP's. This should apply regardless of what these pensions product use as underlying.

Q. 10: Should annuities be treated in the same fashion? Again, please justify or explain your answer.

ACA suggests that a distinction is made between annuities where the payout is made at a fixed date and paid in form of a fixed amount. These annuities should be considered as pensions and thus be out of scope. On the other side annuities where the beginning of payout is not fixed and their amount not fixed or certain could fall in the scope of the PRIP's initiative.

Q. 11: Do you have any comments on the proposed manner of achieving this exclusion?

The difference between annuities is based on the fact whether the annuity is guaranteed by the insurance company or not.

Q. 12: Do you agree that variable annuities might need to be treated as a special case? If so, how should these be defined, and how do you think they should be addressed?

Variable annuities are generally defined as annuity products comprising a guaranteed return plus a variable return, depending on the underlying fund. There should be no difference in treatment to other pension products (Please refer to our answer to question 9) or products with a comparable return (Please refer to our answer to question 1)

Q. 13: Do you see benefits from such an indicative list being developed? If not, please provide alternative proposals and evidence for why these might be effective.

Given the diversity of the European markets and products establishing and keeping up to date a (white or black) list of products might not be effective and might even lead to legal uncertainty and ineffective consumer protection. Also drawing a general list for all countries is likely to be very difficult. ACA underlines the diversity of products and differences between national markets, their consumers and their needs.

Q. 14: Do you have any suggestions on the possible contents for such a list, including on how to define items placed on the list

See answer to question 13 please.

3. Legislative approach

Q15: Should direct sales of UCITS be covered by means of including the relevant rules within the UCITS framework?

ACA prefers not to answer as this topic is not linked to its members' direct activities.

Q16: Do you have any comments on the identified pros and cons of this approach, and any evidence on the scale and nature of impacts (costs as well as benefits)?.

ACA prefers not to answer as this topic is not linked to its members' direct activities.

4. Disclosures

Q. 17: Should the design of the KIID be focused on delivering on the objective of aiding retail investment decision making? If you disagree, please justify or explain your answer.

A KIID should as a matter of fact be designed in a user friendly way, the user being a retail consumer. The KIID should not focus on aiding retail investment decision making (or choosing between different products) but deliver to the consumer the essential information about the product. Being aware of the importance of this information, ACA has developed for its members' use a standardized formula for life insurance products. Insurers have already the obligation to inform their clients and future clients about the characteristics of their products. ACA joins in annex 1 the standardized "Financial Information Sheet" for unit linked life insurance products distributed by its members. The information sheet has its own label and can be recognized as such within information provided by the insurance undertakings.

Q. 18: Should the KIID be a separate or 'stand alone' document compared with other information that might be necessary, e.g. background information, other disclosures, or contractual information? Please justify or explain your answer.

A KIID should give standardized and easily understandable information about the product being offered. For unit-linked products this would mean a reference to underlying "units" or funds and how to find detailed information about those. A KIID should not be a supplementary document added to others but being recognized as pre-contractual information by all national legislative provisions.

Q. 19: What measures do you think will be necessary to ensure KIID remain streamlined and focused solely on key information?

Delivery of standardized key information for the consumer were the main elements in the design of the ACA financial information sheet. Such a standardisation should be extended to other PRIIP's products and be harmonized on the European level. The PRIIP's initiative should lead to a maximum harmonized KIID at European level, i.e. not giving Member states the option to either extent or reduce the KIID's content. This would also lead to more legal certainty between markets, encourage crossborder transactions and limit distortion of competition through national protectionism. Consumers could expect the same type of pre-contractual product information on every national market. It would be therefore highly recommendable to reduce the information to be given to the absolute minimum and to limit the use of "undefined" terms. The exhaustive definition of PRIIP's laid out in the questionnaire and the huge differences between the products encompassed, a necessary measure would be to limit the scope of the definition.

Q. 20: While the same broad principles should be applied to all PRIPs, should detailed implementations of some of these principles be tailored for different types of PRIP? Please justify or explain your answer, and provide examples, where relevant, of the kinds of tailoring you might envisage.

The PRIP's initiative is about protection consumers buying different types of investment products from different types of suppliers. Detailed implementations of some principles could lead to consumer-confusing information as information could be of different style and contents. The variety of products encompassed by the current PRIP's definition would create increased problems in defining such categories.

Q. 21: Do you foresee any difficulties in requiring the KIID to always follow the same broad structure (sequence of items, labelling of items)? Please justify or explain your answer.

The KIID should be designed in such a way that a maximum harmonization across Europe is reached. This enables the consumer to get the same type of information of a PRIP product independently from where the undertaking he wants to buy from is located, leading to better consumer information and more legal certainty.

Q. 22: Do you foresee any difficulties in requiring certain parts of the key information and its presentation (e.g. on costs, performance, risks, and guarantees) to be standardised and consistent as possible, irrespective of tailoring otherwise allowed? Please justify or explain your answer.

The KIID could be designed in a way that it contains also industry specific information for a type of product knowing that for other categories of PRIP's it might not be applicable. An example could be the duration of the product which can be fixed for certain PRIP's but others could have no duration. Some insurance PRIP's are based on biometric data which might not be the case for UCITS and the KIID should provide the consumer with this information and difference.

The KIID should be as consistent as possible, especially no freedom shall be given to Member States to add additional requirements. Due to the differences in architecture of the products encompassed, it will be difficult to find the most important information.

Q. 23: Can you provide examples and evidence of the costs and benefits from your experience that might be expected from greater standardisation of the presentation and content in the KIID?

Undertakings active on different or several European markets would be able to work more cost-effective with a standardized KIID as it would be the same for all European national markets. It is therefore essential that the KIID

is not just added to other existing information documents and is recognized as pre-contractual information of a PRIP.

Q. 24: Should the content of the KIID be controlled so that there is no possibility for firms to add additional information unless expressly allowed for?

ACA believes that the KIID should be maximum harmonized but not restrict undertakings from adding limited supplementary industry specific information to the consumers where they believe it useful. ACA is strongly opposed to ex-ante control of a KIID. Such a control would be an unjustified obstacle to product innovation. It would also be an unjustified administrative burden on cross border business.

Q. 25: Do you foresee any difficulties in applying these broad principles to the KIID for all PRIPs, as the building blocks on content and format for a 'level 1' instrument? Please justify or explain your answer.

Please refer to answer to question 22.

Q. 26: Are there any other broad principles that should be considered on content and format?

The format of the KIID should be clear, contain commonly understandable questions and answers. There might be information blocks not applicable to all PRIP's.

Q. 27: Should product manufacturers be made generally responsible for preparing a KIID? Please justify or explain your answer.

The manufacturer should be defined as the insurance undertaking for insurance PRIP's. It is then the manufacturer's responsibility to prepare the KIID and provide it to the distributors. However distributors should be responsible for the handling of the KIID and for delivering it to the consumer.

Q. 28: Are you aware of any problems that might arise in the distribution of particular products should responsibilities for producing the KIID be solely placed on the product manufacturer?

ACA sees no direct problems linked to the attribution of responsibility of KIID producing on the manufacturer. Saying this, in a KIID, it must be possible to give reference to other information (to underlying funds ...). Product

manufacturers cannot be made responsible for the information referred to. The information of this reference can be included in the KIID. The manufacturer cannot be made responsible in most cases for the work of the distributor.

Q. 29: If intermediaries or distributors might be permitted to prepare the documents in some cases, how would these cases be defined?

Intermediaries or distributors should not be allowed to prepare the KIID; this task should be under the exclusive responsibility of the manufacturer. The distributor has the task to deliver the KIID to the consumer.

Q. 30: What detailed steps might be taken to improve the transparency of the social and environmental impacts of investments in the KIID for PRIPs?

First there must be a precise universal measure to monitor the environmental and social impacts of an investment. This measure could then be referenced to in a KIID.

Q. 31: How might greater comparability and consistency in product labelling be addressed?

Product labelling should be left to manufacturers. The type of product i.e. belonging to a certain branch of life insurance activity (or other) could be part of the information given to the customer in the KIID.

Q. 32: Should the summary prospectus be replaced by the KIID for PRIPs? Please outline the benefits and disadvantages you see with respect to such an approach.

ACA does not answer to this question as it does not directly concern activity of its members.

Q. 33: Should Solvency II disclosures provided prior to the investment decision be replaced by the KIID for PRIPs? Please outline the benefits and disadvantages you see with respect to such an approach.

The PRIP's disclosures should not be added to other disclosures especially those under Solvency 2 provisions. The KIID should be considered as complete pre-contractual information in all member states.

Q. 34: Do you agree with the suggested approach for UCITS KIIDs?

ACA does not answer to this question as it does not directly concern activity of its members.

Q. 35: Are there any disclosures, e.g. required by the existing regimes, which you believe the PRIPs KIID should not include, but which should still be disclosed, e.g. separately to the KIID? Do you have any practical examples for such elements?

The distribution specific disclosures (status of the intermediary and related disclosures) can be seen as an example of disclosure which still need to be treated separately to the KIID.

Q. 36: What in your view will be the main challenges that will need to be addressed if a single risk rating approach is to work for all PRIPs?

The indication of the SRRI for life insurance products is not possible at product level.

Q. 37: Do you consider there are any other techniques that might be used to help retail investors compare risks?

The SRRI system indicates a risk factor and does not give information about factors that reduce risks such as Solvency requirements and other consumer/investor guarantees. Consumers should be informed about the characteristics of such guarantees.

Q. 38: What in your view will be the main challenges that will need to be addressed in developing common cost metrics for PRIPs?

Different types and structures of costs exist for different types of PRIP's. As an example some costs are expressed in absolute amount, others are a fixed or variable percentage of different bases.

For life insurance PRIP's it is impossible to indicate the costs at all underlying fund level.

Q. 39: How can retail investors be aided in making 'value for money' comparisons between different PRIPs?

Consumers can be helped in making “value for money” comparisons by providing them with the key elements of a PRIP. They can thus take an informed decision and weighing for themselves what specificities of one product is important for their particular needs and expectations.

Q. 40: Do you consider that performance information should always be included in a KIID?

ACA believes that information on past performance can give the consumer some indication on how the investment behaved in the past. However as indicators are not updated every day, recent developments could not be taken into consideration; also the investment policies of a fund can change with time and have an effect on the possible future development; such a change would not come out of past experience performance information. The consumer should get information of past performance but be made of aware of that this information is not of absolute relevance for the future performance of an investment.

Q. 41: What in your view will be the main challenges that will need to be addressed in ensuring performance information can be compared between different PRIPs?

The past performance of underlying funds cannot always be disclosed at the level of the product, but only at the level of the underlying funds. The existence and type of guarantees included in the product or provided by the industry is important information to consumers.

Q. 42: Do you agree that a consistent approach to the description of guarantees and capital protection in the KIID should be sought, e.g. through detailed implementing measures, for different PRIPs?

Any guarantees that the consumer gets should clearly be described, especially the conditions of the guarantee.

Q. 43: What information should be provided to retail investors on the cost of guarantees?

Information about the extend of a guarantee and its limits is more efficient for consumers than the cost. There is no common cost criteria for different types of guarantees.

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ANNEX 1: Standardized information sheet for Unit Linked Life insurance distributed by ACA members



1. Fiche info financière assurance-vie pour des assurances liées à des fonds d'investissement

<Dénomination commerciale de l'assurance sur la vie> ¹

Type d'assurance-vie	<Précision du type d'assurance-vie : assurance-vie dont le rendement est lié à des fonds d'investissement>
Garanties	<Précision - de la (des) garantie(s) principale(s) (p. ex. en cas de vie, de décès); - le cas échéant, des garanties complémentaires éventuelles (p. ex. en cas de décès, d'invalidité ...)>
Public cible	<Description générale du public cible> ²
Fonds Renvoyer aux informations fournies par le gestionnaire de fonds	<Précision - de la dénomination et nature/composition du fonds dans lequel il est investi/des fonds dans lesquels il peut être investi, - le cas échéant, de la clé de répartition entre les fonds disponibles, - de l'objectif de placement, - de la classe de risques du fonds/des fonds, - du profil de risque de l'investisseur y correspondant, - du gestionnaire du fonds "coupole">
Rendement	<Précision - du rendement lié à des fonds, - le cas échéant, de l'existence d'une garantie/protection du capital au terme et de l'instance qui assume cette garantie> <i>+ obligations légales : pas de garantie de rendement par l'entreprise d'assurances - risque financier supporté par le preneur d'assurance</i>
Rendement du passé (pour autant qu'il soit disponible) Renvoyer aux informations fournies par le gestionnaire de	<Précision - de la hauteur du rendement brut du passé/de l'évolution de la valeur des fonds dans le passé, - de la date de lancement du produit - de la période/de l'année à laquelle le rendement se rapporte, en

¹ Cette « fiche info financière assurance-vie » décrit les modalités du produit qui s'appliquent le <date>.

² Cette assurance s'adresse aux personnes souhaitant placer leur argent dans des fonds dont les risques sont décrits à la rubrique « fonds ».

fonds	<p>mentionnant au moins le rendement sur 1 an, 3 ans, 5 ans, 10 ans et la durée de vie totale du fonds (exprimé sur base annuelle),</p> <ul style="list-style-type: none"> - de la base sur laquelle le rendement est appliqué, <p><i>+ obligations légales : les rendements du passé ne constituent pas une garantie pour le futur</i></p>
Frais <ul style="list-style-type: none"> - Frais d'entrée - Frais de sortie - Frais de gestion directement imputés au contrat - Indemnité de rachat - Frais en cas de transfert de fonds 	<p><Précision des frais d'entrée (p. ex. x % à chaque versement)></p> <p><Précision des frais de sortie></p> <p><Précision des frais de gestion (p. ex. x % par année)></p> <p>Indiquer la fréquence de prélèvement + taux maximum en cas de frais dégressifs</p> <p><Précision des modalités pour l'indemnité de rachat></p> <p><Précision des frais liés à un transfert de fonds éventuel></p>
Adhésion/Inscription	<p><Précision</p> <ul style="list-style-type: none"> - du moment de l'adhésion/de l'inscription (p. ex. à tout moment) ou de la période (initiale) d'adhésion ou d'inscription, - le cas échéant, de la date (ultime) de paiement>
Durée	<p><Précision</p> <ul style="list-style-type: none"> - du fait que l'assurance se termine au décès de l'assuré ; - de la durée (p. ex. durée indéterminée, x années et y mois, date de début/de fin du contrat), - le cas échéant, de la durée recommandée>
Valeur d'inventaire	<p><Précision</p> <ul style="list-style-type: none"> - de la valeur d'inventaire par unité (facultatif), - du moment et de la fréquence de détermination de la valeur d'inventaire de l'unité, - du lieu où la valeur d'inventaire peut être consultée>
Prime	<p><Précision</p> <ul style="list-style-type: none"> - du type de prime (p. ex. prime périodique, prime unique), - de la possibilité ou non de versements complémentaires, - le cas échéant, du versement à des moments obligatoires/réguliers, - le cas échéant, de la périodicité du paiement de la prime, - le cas échéant, du versement minimal/maximal>
Fiscalité Préciser que ceci n'est d'application que pour les résidents. Les non résidents doivent s'en référer à la législation de leur Etat de résidence	<p><Précision</p> <ul style="list-style-type: none"> - du régime fiscal pour le paiement de la prime, - des taxes auxquelles est soumis le paiement de la prime, - du régime fiscal pour un rachat partie/total, - du régime fiscal pour la prestation (y compris des exonérations éventuelles)>
Rachat <ul style="list-style-type: none"> - Rachat partiel - Rachat total 	<p><Précision des modalités de rachat partiel avec, le cas échéant, une distinction entre rachat « planifié » et « non planifié » (par exemple, rachat minimal, réserve minimale avant rachat, réserve minimale restante)></p> <p><Précision des modalités pour un rachat total></p>
Transfert de fonds	<p><Précision</p> <ul style="list-style-type: none"> - de la possibilité ou non de transfert de fonds, - le cas échéant, des modalités de transfert de fonds (avec distinction

	éventuelle entre la réserve déjà constituée et les versements futurs)>
Information	<Précision - de l'information que le preneur d'assurance reçoit périodiquement, - du renvoi au règlement de gestion pour chaque fonds et au lieu où il peut être consulté>

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UNESPA response to the EC consultation on PRIPs

UNESPA (Association of Spanish Insurers and Reinsurers) appreciates the opportunity to analyze and comment on the EC consultation on legislative steps for the Packaged Retail Investment Products (PRIPs) initiative.

UNESPA is the representative body of more than 250 private insurers and reinsurers that stand for approximately the 96% of Spanish insurance market. Spanish Insurers and reinsurers generate premium income of more than € 55 bn, directly employ 60.000 people and invest more than € 400 bn in the economy.

1. Scope

Q. 1: Should the PRIPs initiative focus on packaged investments? Please justify or explain your answer.

Q. 2: Should a definition of PRIPs focus on fluctuations in investment values? Please justify or explain your answer.

Q. 3: Does a reference to indirectness of exposure capture the 'packaging' of investments? Please justify or explain your answer.

Q. 4: Do you think it is necessary to explicitly clarify that the definition applies to fluctuations in 'reference values' more generally, given some financial products provide payouts that do not appear to be linked to specific or tangible assets themselves, e.g. payouts linked to certain financial indices, the rate of inflation, or the overall value of a fund or business?

Q. 5: Do you have any other comments on the proposed definition? If you consider it ineffective in some regard, please provide alternatives and explain your rationale in relation to the criteria for a successful definition outlined above.

The definition of a PRIP proposed by the Commission services in the Consultation on legislative steps for the PRIPs initiative is too broad. As recognized in point 2.4 of the Consultation, the definition of PRIPs under point 2.3 "*might encompass financial products which are not targeted by this initiative, such it may be proportionate to consider explicitly excluding certain types of product in the future legal texts – most likely on Level 1*".

According to our view, it makes more sense to have a narrower definition of PRIPs, thus avoiding the need of excluding later many types of products which clearly should not be targeted by this initiative.

Having said that though, even if a narrower definition is needed, we generally agree that the PRIPs initiative should focus on packaged investments. But the key question here is to define

what a packaged investment is. And this element is very linked to the fact of whether or not the product creates exposure to other underlying investment products (underlying investment risk) at maturity.

It has to be reminded that according to the Commission services preliminary conclusions (16 December 2009) "*the criteria outlined in the issues paper are largely sound –building the definition on three legs, each of which must be satisfied for a product to be a PRIP:*

- *an element of packaging;*
- *a product capable of meeting an investor need for capital accumulation; and*
- *a product that creates exposure¹ to investment risk for the investor."*

We don't understand why the Commission services abandons that three-leg approach in favour of other unfortunately weaker definition based only in two key elements:

- exposure of the returns of a PRIP to uncertainty or fluctuations (the investment element).
- the packaging or indirectness to this exposure (the packaging, structuring or "engineering" element).

Whether a product creates exposure [at maturity] to investment risk for the investor should be maintained as a third key element to define a PRIP. Because of this reason simple deposits and "vanilla" bonds are planned to be excluded from the scope of the initiative.

In the case of "vanilla" bonds, the principal is only repayable at par **at maturity**. A (vanilla) bond is a debt security, in which the issuer owes the holders a debt and, depending on the terms of the bond, is obliged to pay interests (the coupon) and to repay the principal at a later date, termed maturity. But if the investor sells the bond prior to maturity the payout can give rise to a loss or benefit because fixed rate bonds are subject to interest rate investment risk, meaning that their market prices will increase or decrease in value when the interest rates fall or rise.

In the case of simple deposits, the Commission services proposes to exclude them from the scope if principal is repayable at par (but it does not mention that in many fixed term simple deposits there is a penalty in case of early withdrawal. This implies that principal is repayable at par at the end of the term of the deposit).

In Spain, annuities and other retirement products with long term asset allocation and ALM strategies form a significant part of the life sector in Spain, amounting to around €92bn of liabilities (64% of total life liabilities) in December 2009. These are long term liabilities guaranteeing a long term fixed interest rate at maturity which, in case of surrender, allow the insurance company to fully pass the market value of the assets backing the liabilities to the policyholder.

¹ At maturity.

According to our view, the abovementioned products should also be out of the scope of PRIPs because they are simple and very similar to the abovementioned characteristics of "vanilla" bonds and simple deposits (e.g. a traditional life insurance product that provides a single pay out at maturity guaranteeing a fixed interest rate of 3% during 10 years, in which the technical provisions are invested in 10-year government or corporate bonds. In case of early surrender/withdrawal, the insurance company can fully pass the market value of the bonds backing the liabilities to the policyholder).

It makes no sense to consider that it exists an element of packaging, structuring or "engineering" (that is, an element of complexity) in the abovementioned life insurance products, because they are quite simple. What's more, that products don't create exposure to other underlying investment products (bonds) at maturity. Even in case of default of the underlying government or corporate bond the insurance company has to pay the interest rate guaranteed at maturity. Insurance companies have to fulfil with very strict solvency requirements. At maturity, it is the solvency of the insurance company what guarantees the fixed interest rate of 3% (and not the solvency of the issuer of the bond). This fact should be a key element to assess whether or not a product is a PRIP.

Additionally, "with-profit" life insurance products in which there can be a possible participation of policyholders in the returns of the insurance company own investments or in the profitability of the insurance company itself in addition to the guaranteed minimum return should also be out of the scope, because as it occurs with deposits, principal is always repayable at par (the policyholder at least receives as a payout the amount of the insurance premium paid).

Therefore, for all the abovementioned reasons, the following products should be out of the scope of the PRIPs initiative:

- pure protection products.
- traditional life insurance products (without profit) which guarantee a fixed interest rate at maturity (even if, as it occurs with "vanilla" bonds, in case of early surrender/withdrawal, the insurance company can fully pass the market value of the bonds backing the liabilities to the policyholder).
- "with-profit" life insurance products in which there can be a possible participation of policyholders in the returns of the insurance company own investments or in the profitability of the insurance company itself in addition to the guaranteed minimum return (as it occurs with simple deposits, principal is always repayable at par).

On the basis of this proposal, the following products would therefore fall within the scope of the PRIPs initiative:

- unit-linked/Index-linked life insurance products, in which the policyholder bears the investment risk.

Q. 6: Should simple (non-structured) deposits be excluded from the scope of the initiative? Please justify or explain your answer.

Q. 7: Do you consider option 1 or option 2 preferable for achieving this? Please explain your preference, and set out an alternative if necessary, with supporting evidence.

Q. 8: Should such an exclusion be extended to financial instruments which might raise similar issues as deposits (e.g. bonds), and if so, how might these be defined? Please justify or explain your answer.

According to the Consultation Paper, simple deposits would be excluded from the scope of the initiative, if they are repayable at par. Such an exclusion could be extended to "*financial instruments that might raise similar issues as deposits (e.g. "vanilla" bonds)*", although bonds guarantee an interest rate at maturity but not throughout the life of the bond (if the investor sells the bond prior to maturity the payout can give rise to a loss or benefit).

It should be taken into account that both simple deposits and "vanilla" bonds are significant competing products of traditional life insurance products. Therefore, the inclusion of traditional life insurance products (both without and with-profits) in the scope of the PRIPs initiative and the exclusion, at the same time, of simple deposits and "vanilla" bonds, will result in a non-level playing field.

Traditional life insurance products (both without and with-profits), simple deposits and "vanilla" bonds raise materially different consumer protection issues (a minimum guaranteed interest rate at maturity, simplicity, solvency requirements) to those raised by other much more complex investment products (structured deposits, structured bonds, derivatives, etc).

Q. 9: Should pensions be explicitly excluded from the PRIPs initiative at this stage? Please justify or explain your answer.

Q. 10: Should annuities be treated in the same fashion? Again, please justify or explain your answer.

Q. 11: Do you have any comments on the proposed manner of achieving this exclusion?

Pensions should be explicitly excluded from the PRIPs initiative at this stage. In general terms, requirements on transparency and distribution for pension products are higher than for other investment products, because of their extension and social function. UNESPA agrees that it should be the Member States who decide which products are pensions.

Therefore, we agree with the exclusion proposed by the Commission services: "*For the purposes of the PRIPs initiative, those products where the provisions of national law accord particular benefits to the client in relation to the product by virtue of its use for the purposes of retirement planning should be excluded from scope*".

Regarding annuities, these are the products that better complement the public pensions. Spanish Law provides particular tax benefits to the client in relation to term and life annuities by virtue of its use for the purposes of retirement planning. Accordingly, they should also be considered pensions for the purposes of the PRIPs initiative.

Q. 12: Do you agree that variable annuities might need to be treated as a special case? If so, how should these be defined, and how do you think they should be addressed?

Variable annuities are not very common in Spain. Therefore, we do not believe it to be appropriate to be commenting on such an issue.

Q. 13: Do you see benefits from such an indicative list being developed? If not, please provide alternative proposals and evidence for why these might be effective.

Q. 14: Do you have any suggestions on the possible contents for such a list, including on how to define items placed on the list?

Due to the wide diversity across the EU in terms of products, we do not believe appropriate to develop an indicative list at EU level (this could only make sense at country level). Other concerns are the difficulties of regularly updating the indicative list and adding further products.

2. Legislative approach

Q15: Should direct sales of UCITS be covered by means of including the relevant rules within the UCITS framework?

Q16: Do you have any comments on the identified pros and cons of this approach, and any evidence on the scale and nature of impacts (costs as well as benefits)?

UNESPA does not believe it to be appropriate to be commenting on such an issue, as it does not directly involve insurance.

3. Disclosures

Q. 17: Should the design of the KIID be focused on delivering on the objective of aiding retail investment decision making? If you disagree, please justify or explain your answer.

UNESPA agrees with the Commission that the KIID should be designed in a user-friendly format to facilitate the decision-making process for the consumer.

We have concerns with regard to the current recommendations on the KIID format, however, especially with regard to its length and the level of prescriptiveness. We believe that the KIID should rather provide for an outcome-based approach, focusing on enabling retail clients to make informed decisions. This way, firms are able to adapt the KIID requirements to their practice.

It could also be very difficult to adapt the KIID to insurance PRIPs if traditional life insurance products were to be finally included in the scope of the PRIPs initiative.

The CEA has developed a key information checklist (KIC) for unit-linked life insurance products. The objective of the KIC is to provide consumers with essential insurance-relevant information in order to assist them in understanding and comparing products. The KIC aims to allow for comparison between various unit-linked life insurance products, appropriately highlighting the differing features and objectives of unit-linked life insurance products compared to other PRIPs. Given the aspiration for a high level of harmonisation between the different standardised information sheets, the KIC also aims to help consumers compare products consistently across Europe.

Q. 18: Should the KIID be a separate or 'stand alone' document compared with other information that might be necessary, e.g. background information, other disclosures, or contractual information? Please justify or explain your answer.

Considering insurance PRIPs, there is a wide variety of unit-linked life insurance products available to customers. Some may be linked to a single underlying asset or investment fund while other may be linked to eg fifty of them, offering thus a considerable number of different combinations in the same unit-linked product to the choice and discretion of the customer.

In the second case, as it is impossible to predict which of the available underlying assets or investment funds the customer will select, it is necessary to separate pre-contractual disclosures at the level of the product from those at the level of the underlying investments linked to the product.

Therefore, UNESPA believes that any standardised disclosures format for insurance PRIPs should permit to manage also these kinds of insurance PRIPs, including references to all proposed underlying assets or investment funds KIID-like formats or other detailed pre-contractual information (or at least to the KID-like formats or pre-contractual information regarding those underlying funds in which the consumer shows interest). This will enable the customer to make an informed decision about the insurance PRIP thanks to key information at the product level and to deepen information about the underlying assets or investment funds.

References to underlying assets or investment funds in the form of eg hyperlinks can be included in the insurance PRIPs' disclosures format in (i) a specific information category, (ii) a separate annex (eg table summarising the fund names, investment objectives, risk classifications, investor risk profiles, recommended time horizon, managing costs), (iii) an existing information category ("Investment and policy objectives" or "Practical information"). The decision as to where to place such references should be taken at national level with consumer's expectations in mind.

Q. 19: What measures do you think will be necessary to ensure KIID remain streamlined and focused solely on key information?

UNESPA believes, as a general measure, that KIID should be structured on key information and features of the products – namely those information considered to be essential for an acquainted choice – and should include references to deepen information on underlying assets and to other detailed precontractual information. Besides, UNESPA believes that any user-friendly disclosures format must be sufficiently flexible to enable innovation and the adaptation of information contents to local consumer needs, expectations, preferences and level of financial understanding, or to local law and changes in product features.

We believe that consumer testing provides an important means of ensuring that the focus on key information is observed. UNESPA has in fact tested its own KIC with retail customers to examine its effectiveness and usefulness with positive results.

Q. 20: While the same broad principles should be applied to all PRIPs, should detailed implementations of some of these principles be tailored for different types of PRIP? Please justify or explain your answer, and provide examples, where relevant, of the kinds of tailoring you might envisage.

The CEA agrees with the Commission's approach to establish high level principles for all PRIPs to assure horizontal consumer protection, completed by more specific disclosure requirements for specific products falling within the scope of PRIPs. The latter is necessary to explain product-specific features, as this is the case for insurance products.

When insurance products cover biometric risks, this feature needs to be explained to the customer as he/she buys protection against those peculiar risks. The challenge will be to explain and express the added value that the biometric risk coverage represents to the client in a concise way. We also agree that clear information about the benefits, risks and costs of a retail investment product is necessary for retail clients to make adequately informed decisions.

Common principles should ensure that disclosures are fair, clear and comprehensible, and not misleading to retail clients. They should be presented in a format appropriate for retail clients, ie be short and simple, and tested with retail customers to demonstrate their effectiveness.

Q. 21: Do you foresee any difficulties in requiring the KIID to always follow the same broad structure (sequence of items, labelling of items)? Please justify or explain your answer.

It will be very difficult to always follow the same broad structure if traditional life insurance products were to be finally included in the scope of the PRIPs initiative. If only Unit-Linked/Index-Linked life insurance products were included in the scope of the PRIPs initiative, to follow the same broad structure for all PRIPs could be easier (in any case if would be necessary to explain the client the added value and associated costs of the biometric risk coverage).

Q. 22: Do you foresee any difficulties in requiring certain parts of the key information and its presentation (e.g. on costs, performance, risks, and guarantees) to be standardised and consistent as possible, irrespective of tailoring otherwise allowed? Please justify or explain your answer.

Insurance PRIPs are distinct from other PRIPs, for example, through biometric risk coverage, duration of contracts or cancellation rights. For instance, investment funds, retail structured securities and structured term deposits do not provide any risk coverage, while, in contrast, Unit-Linked life insurance policies usually do.

The following categories of information should be – for instance – included in the sectoral implementing measures for insurance products defined as PRIPs: insurance benefits (or cover), premium, duration of the contract, and consequences of early termination of the contract. Sectoral measures should help to adapt the contents of certain categories of information to the specificities of the different products. For instance, for those life insurance products falling within the definition of PRIPs, the category of “objectives and investment policy” should also include the biometric risk covered; the category of “risk and reward profile” should include a narrative explanation referring to the existence of specific solvency requirements.

Q. 23: Can you provide examples and evidence of the costs and benefits from your experience that might be expected from greater standardisation of the presentation and content in the KIID?

Q. 24: Should the content of the KIID be controlled so that there is no possibility for firms to add additional information unless expressly allowed for?

UNESPA believes that any disclosures format should provide for sufficient flexibility to enable innovation and the adaptation of information contents to local consumer needs, expectations, preferences and level of financial understanding, or to local law and product features, while at the same time allowing for comparability between PRIPs.

Both the CEA and UNESPA KIC contain a minimum list to comply with, thus allowing national standards to include further information.

Q. 25: Do you foresee any difficulties in applying these broad principles to the KIID for all PRIPs, as the building blocks on content and format for a 'level 1' instrument? Please justify or explain your answer.

Q. 26: Are there any other broad principles that should be considered on content and format?

To facilitate comparison, both the CEA and UNESPA KIC provides for similar headings presented in a preferential order. The information headings provided in the KIC are standardised, ie general and non-personalised according to the particular circumstances of an individual consumer. However, the information headings are relevant, ie they concern the features that clients are most likely to be interested in when making their decision.

Q. 27: Should product manufacturers be made generally responsible for preparing a KIID? Please justify or explain your answer.

Q. 28: Are you aware of any problems that might arise in the distribution of particular products should responsibilities for producing the KIID be solely placed on the product manufacturer?

Q. 29: If intermediaries or distributors might be permitted to prepare the documents in some cases, how would these cases be defined?

Q. 30: What detailed steps might be taken to improve the transparency of the social and environmental impacts of investments in the KIID for PRIPs?

Q. 31: How might greater comparability and consistency in product labelling be addressed?

Q. 32: Should the summary prospectus be replaced by the KIID for PRIPs? Please outline the benefits and disadvantages you see with respect to such an approach.

Q. 33: Should Solvency II disclosures provided prior to the investment decision be replaced by the KIID for PRIPs? Please outline the benefits and disadvantages you see with respect to such an approach.

UNESPA believes that Solvency II disclosures provided prior to the conclusion of the relevant contracts should be replaced by the KIID for insurance PRIPs. This would ensure that there is no duplication of similar disclosure requirements between different instruments. The KIID should not merely be another document added to the existing number of client documents. It should form part of the pre-contractual information (and not come in addition to it).

However, it is important to stress the fact that this should be limited to Solvency II pre-contractual disclosures, as the Level 1 measures cover pre-contractual, contractual and ongoing disclosures. It is also important that the Commission avoids the maintenance and introduction of further pre-contractual disclosures requirements on top of the KIID for insurance PRIPs, as otherwise it runs the risk of information overload and may result in hindering efforts to improve the situation for consumers.

Q. 34: Do you agree with the suggested approach for UCITS KIIDs?

Q. 35: Are there any disclosures, e.g. required by the existing regimes, which you believe the PRIPs KIID should not include, but which should still be disclosed, e.g. separately to the KIID? Do you have any practical examples for such elements?

Q. 36: What in your view will be the main challenges that will need to be addressed if a single risk rating approach is to work for all PRIPs?

Referring to insurance PRIPs, the inclusion of an SRRI is not possible at product level, because of the considerable number of different combinations in the same unit-linked product to the choice and discretion of the customer.

Q. 37: Do you consider there are any other techniques that might be used to help retail investors compare risks?

Q. 38: What in your view will be the main challenges that will need to be addressed in developing common cost metrics for PRIPs?

Considering the disclosures on charges in the UCITS KIID, “performance fees” exist at fund level, not at insurance product level. In contrast, “entry”, “exit” and “on-going charges” are relevant sections at product level for insurance PRIPs.

Concerning insurance PRIPs and considering a standardised (non-personalised) format, total costs at product level cannot be disclosed in a single figure. This is because some costs are a fixed amount, while others are expressed as a percentage on a different basis (eg 3% of the premium paid, 0.5% of the sum insured, etc.). Disclosures of costs at product level should therefore be split into “entry fees”, “exit fees” and “on-going charges” (without making any further distinction, for example, as to the “entry costs” between the administrative and distribution costs). This should be disclosed as a percentage or in euro when necessary, ie for fixed amounts.

Regarding fund costs, a number of possible alternatives exist. Firstly, as a minimum, the insurance KIID may indicate that other charges exist at underlying asset or fund level. A second possibility would be to display all the costs of all the available underlying asset or funds either in the insurance KIID itself or at the level of the KIID-like format of the underlying asset or fund, if it exists, or at the level of the pre-contractual information if there is no KIID-like format available. Thirdly, it may be possible to have some form of a mix of the two options above. The decision as to which alternative to apply, should be taken at a national level, allowing hereby sufficient flexibility to take into account existing national models.

Q. 39: How can retail investors be aided in making 'value for money' comparisons between different PRIPs?

Q. 40: Do you consider that performance information should always be included in a KIID?

Section 11 of UNESPA SIS provides the client, where this is possible, with information about the historical rate of return (net of costs) obtained by each of the underlying investment funds or assets in which the mathematical provisions may be invested (annual average rate of return of the previous financial years), with the inclusion of the express warning that past or historical rates of return do not presuppose future profits.

In this same section, the client is informed about where they can get the most up to date information at any time on the costs and commissions of the underlying investment funds or assets in which the mathematical provisions may be invested.

Q. 41: What in your view will be the main challenges that will need to be addressed in ensuring performance information can be compared between different PRIPs?

Q. 42: Do you agree that a consistent approach to the description of guarantees and capital protection in the KIID should be sought, e.g. through detailed implementing measures, for different PRIPs?

UNESPA wishes to stress the fact that information about “guarantees” is important to help consumers to understand the quality and value of the capital protection behind the product they purchase (eg Solvency requirements).

Q. 43: What information should be provided to retail investors on the cost of guarantees?

APPENDIX

UNESPA GOOD PRACTICE GUIDELINES - LIFE INSURANCE CONTRACTS WHERE THE POLICYHOLDER BEARS THE FULL INVESTMENT RISK (UNIT-LINKED)

On May 28, 2009, UNESPA approved a pre-contractual standardised info sheet (SIS) for Unit-Linked Life Insurance very in line with the CEA Key Information Checklist (CEA KIC). At the end of December 2010, 23 Insurance Undertakings had adhered to UNESPA Good Practice Guidelines for Unit-Linked products.

"These Good Practice Guidelines, which are of voluntary adherence for Insurance Undertakings, are a specific element of the Spanish Insurers and Reinsurers Association (UNESPA) Good Practice Guidelines for Transparency in Insurance, and principally aim to allow consumers to compare between different life insurance products where the policyholder bears the investment risk (from hereon in "Unit-linked" insurance or products) at the stage prior to the insurance contract (pre-contractual information), as well as to enable comparison with other savings and investment products.

To this end, we consider that the measure which would allow the greatest improvement in comparability between these products would be to reach a level of standardization, both in terms of structure and format and of the content, of the information provided to prospective clients prior to the selling of the product (prior information notice).

As a result, all those Insurance Undertakings who adhere to these Good Practice Guidelines commit to provide their prospective clients, before selling the Unit-Linked product, with the standardized prior information notice provided in Annex 1 of this document, with the same structure, order and sections. As regards the content of the sections, a certain level of flexibility is allowed in relation to the specific drafting of each of these, as long as they follow all of the principles and instructions in relation to the minimum information to provide in each section as set out in the said standardized prior information notice (all of the above without prejudice to any or all of the sections being made more extensive, depending on the policy of each Undertaking).

The standardized prior information notice will provide information on all of the aspects set out in article 105 of the Spanish policy for organization and supervision of Private Insurance (ROSSP) (specific duty for information in the case of life insurance), as well as on certain additional aspects which would be considered to contribute to an improved understanding by the potential client of the principal characteristics of the product, and to enable comparison between different products."

1. Name and legal status of the contracting company. Registered address of the company and, if appropriate, of its offices in Spain.	
2. Name of the product	
3. Type of insurance	<p>This section should give a clear indication that this is life insurance for which the policyholder bears the investment risk, and as such that the insurance undertaking does not guarantee any type of minimum interest or return. There should be an express warning that the amount of the benefit or the surrender value may be less than the premium paid.</p> <p>By reading this section the prospective client should be able to understand, in plain and simple terms, that the positive or negative return obtained depends on the development of the underlying investment funds or assets in which the mathematical provisions are invested (the value of the funds).</p>
4. Definition of the guarantees and options offered. How the benefits are paid. Exclusions from coverage.	<p>This should give a detailed explanation of the guarantee in the event of the death of the policyholder (additional payment in case of death). That is to say, the prospective client should understand that, in the event that they die before the established expiry date of the policy, the designated beneficiary or beneficiaries of this will receive the value of the funds plus an additional amount due to death.</p> <p>Furthermore, there should be a detailed explanation, where appropriate, of any other guarantee or option offered.</p> <p>In addition, the possible means of payment of the benefits should be indicated and, where appropriate, any exclusions of coverage of the insurance policy for the additional principal for death or any other guarantee offered.</p>
5. Nature and risk profile of the investments linked to the product. Definition of the units of account to which the benefits are subject.	<p>The prospective client should be given honest information on the general nature of the underlying investment funds or assets in which the mathematical provisions may be invested, with an express indication of their risk profile. The units of account to which these benefits are subject should also be defined.</p>
6. Conditions, timeframes and expiry dates of the premiums. Premiums related to each guarantee, whether principal or complementary.	<p>The type of premium (indication of whether the insurance is contracted under a single premium or regular premiums). Minimum and/or maximum amounts of the single premium/regular premiums. Express indication of whether the contract allows for the contribution of extraordinary premiums and in what conditions these are allowed.</p> <p>In the case of insurance contracted under regular premiums, this section should specify whether the policyholder has the right to modify the conditions of the future premiums, and the authorization to suspend or resume payment of these. It should also specify the effects which will be brought about by the passing of a specific period of time from the due date of any of the future insurance premiums without said premium being paid.</p> <p>In addition, information should be given on the annual cost of the premium paid for the additional death payment or any other guarantee or option offered or, at least, an indication should be given of the method or system applicable for the calculation of said</p>

	annual cost.
<p>7. Costs and commissions:</p> <p>7.1. Administrative and distribution costs.</p> <p>7.2. Entry fees or costs of additional premiums.</p> <p>7.3. Costs of reassignment or change in underlying assets (change of underlying investment funds or assets).</p> <p>7.4. Costs or compensation for total or partial surrender during a specific period.</p> <p>7.5. Exit fees.</p>	<p>This information will be given in absolute terms (euros/ year) or expressed as an annual percentage on the premiums or on the mathematical provision, or a combination of the above. The information relating to administrative and distribution costs will be given together, without a breakdown.</p> <p>Where the client is charged entry fees or costs of additional premiums which are not met by the administrative or distribution costs, these should be adequately broken down (i.e. in absolute terms [euros per contribution], or expressed as a percentage of the premiums).</p> <p>Where the client is charged costs for the reassignment of investments (change of some underlying investment funds or assets to others if this is allowed within the policy) they will be informed of the cost of each change or reassignment (i.e. expressed as a percentage of the amount to be transferred or reassigned).</p> <p>If it is possible to do one or more reassignments or changes per year for free, this will be mentioned, indicating from what point (how many changes or reassignments per year) charges will be applied for reassignment or change.</p> <p>The conditions under which the client may exercise total or partial surrender should be clearly expressed, as well as the applicable costs or compensation, where appropriate, in which circumstance, with an indication of the period or different periods in which they are applied (i.e. expressed in percentage/s of the amount redeemed, and specifying the period or periods in which the compensation is applicable).</p> <p>Where the client is charged exit fees which are not covered by compensation for the total or partial surrender during a specific period, these should be adequately broken down (i.e. in absolute terms (euros per contribution) or expressed as a percentage of the amount reimbursed).</p>
<p>8. Duration of the Contract and conditions for its annulment or termination.</p>	<p>This section should be written in such a way that the client understands when the contract comes into force, how long it lasts, and the possible causes for termination of the contract (death of the insured, total surrender or expiry of the contract).</p> <p>Where the insurance contract is lifelong in nature, it should be explained that the insurance policy does not have a concrete set expiry date, but that it will terminate on the death of the insured, or when the policyholder makes a total surrender of the contract.</p> <p>This section should also expressly warn that insurance contracts in which the policyholder bears the investment risk are exempt from the unilateral right of termination established in article 83, paragraph a) of the Insurance Contracts Law.</p> <p>On the other hand, where appropriate, reference should be made to any other circumstance which may allow the annulment or termination of the contract by any of the parties.</p>

<p>9. Indication of the surrender value and the nature of corresponding guarantees.</p>	<p>The conditions in which the client may make a total or partial surrender should be clearly indicated, as well as the costs or compensation applicable (in section 7.4), where appropriate, in such circumstances, with expression of the period or different periods in which they apply (i.e. expressed in percentage(s) on the amount redeemed).</p> <p>Equally, this section should give express information if the possibility of the policyholder to make a total or partial surrender is limited during a specific period of time, during which the insurance contract will be illiquid.</p> <p>In addition, by reading this section, the client should be able to reasonably understand the following aspects:</p> <ul style="list-style-type: none"> • Procedure for making a total and/or partial surrender. • Method of calculating the surrender value. • Maximum period in which the insurance undertaking must proceed to sell the underlying investment funds or assets after the client makes a total or partial surrender. • Maximum period in which the insurance undertaking must proceed to pay the amount derived from the total or partial surrender. • Indication of whether the policy includes provisions for any case of "force majeure" (eg war) or unexpected event which constitutes an exception to the general aspects set out above.
<p>10. Reassignment or change of linked investments (change of underlying funds or assets)</p>	<p>Indication of whether the contract allows the reassignment or change of linked investments (change of some underlying investment funds or assets to others if this is contemplated in the policy) or not and, where permitted, the procedure for this. If there is any minimum or maximum limit as regards the amount to transfer or reassign this should be expressly mentioned here. The information on the costs associated with reassignment or change of underlying assets is given in section 7.3.</p>
<p>11. Historical rates of return and information on the costs and commissions of the linked investments.</p>	<p>This section should provide, where this is possible, the client with information about the historical rate of return (net of costs) obtained by each of the underlying investment funds or assets in which the mathematical provisions may be invested (annual average rate of return of the last previous 1, 3, 5 and 10 financial years), with the inclusion of the express warning that past or historical rates of return do not presuppose future profits.</p> <p>In this same section, the client should be informed about where they can get the most up to date information at any time on the costs and commissions of the underlying investment funds or assets in which the mathematical provisions may be invested.</p>
<p>12. General indications relating to the applicable tax regime.</p>	<p>Attempts will be made to explain, in easily understandable terms, the taxes applicable to the contract, or at least to make reference to the general applicable fiscal regulations.</p>
<p>13. Other information</p>	<p>.....</p>



Packaged Retail Investment Products (PRIPs)

ABI's response to the European Commission's consultation on legislative steps for the PRIPs initiative

Introduction

The ABI welcomes the opportunity to respond to the Commission's consultation on legislative steps for the Packaged Retail Investment Products (PRIPs) initiative.

The ABI is the voice of the UK's insurance, investment and long-term savings industry. It has over 300 members, which together account for around 90% of premiums in the UK domestic market. The UK insurance industry is the third largest in the world and the largest in Europe. Employing more than 300,000 people in the UK alone, it is an important contributor to the UK economy and manages investments of £1.5 trillion, over 20% of the UK's total net worth.

The ABI's registration number on the European Commission's Register of Interest Representatives is: **730137075-36**.

Executive summary

The ABI supports the core objective of the PRIPs initiative. Consumers need to have confidence in both the market and the firms operating within it. To achieve, this, we agree that pre-contractual product disclosure should be enhanced to increase transparency, tackle the asymmetry of information between consumers and product providers and enable comparison between investment options.

The ABI believes getting the scope of the PRIPs initiative right is crucial and the focus should remain on packaged investments rather than investments more generally. The economic function of the product should determine its regulatory treatment and not the legal form in which it is packaged.

The Commission's drive to take a horizontal approach to product disclosure and sales rules across the EU is best served by maintaining a wide scope. However, the ABI agrees that while the work on the Pensions Green Paper is ongoing, pensions should remain out of scope.

The ABI supports moves to address the patchwork of uncoordinated regulation at both a national and European level and we agree the MiFID regime is an appropriate "benchmark" for insurance PRIPs. However, rather than introducing these rules into IMD the ABI believes it would be more sensible to expand the scope of conduct of business rules in MiFID to cover the sale of all PRIPs products. We urge the Commission to reassess its chosen legislative approach if it wishes to achieve the objective of consistent and coherent regulation.

The ABI believes that the UCITS KIID is a good starting point for disclosures for unit-linked funds. However, the variance between insurance products across the EU and the potential number of underlying funds within these products makes the development of harmonised product disclosure significantly more challenging than at fund level. To overcome these difficulties the ABI believes that the Commission should focus on the production of two disclosure documents- one at the product level and one at the fund level.

Sections 2.1- 2.4: Scope of the PRIPs regime

Q. 1: Should the PRIPs initiative focus on packaged investments? Please justify or explain the answer.

Q. 2: Should a definition of PRIPs focus on fluctuations in investment values? Please justify or explain your answer

Q. 3: Does a reference to indirectness of exposure capture the ‘packaging’ of investments? Please justify or explain your answer

Q. 4: Do you think it is necessary to explicitly clarify that the definition applies to fluctuations in ‘reference values’ more generally, given some financial products provide payouts that do not appear to be linked to specific or tangible assets provide payouts that do not appear to be linked to specific or tangible assets themselves, e.g. payouts linked to certain financial indices, the rate of inflation, or the overall value of a fund or business?

Q. 5: Do you have any other comments on the proposed definition? If you consider it ineffective in some regard, please provide alternatives and explain your rationale in relation to the criteria for a successful definition outlined above.

The ABI agrees with the Commission’s proposal to maintain the focus of the PRIPs initiative on packaged investments rather than investments more generally. In addition, PRIPs require a definition which focuses on their economic effect rather than a legal definition which risks regulatory arbitrage.

This definition would bring life insurance products with an investment component (e.g. with-profits products) into scope and we agree that these products should be subject to broadly similar regulation as UCITS. However, the Commission should be aware that particular features of these products (e.g. “smoothing” and guarantees) create specific challenges for the standardisation of disclosure documents.

Though supportive of the objective of the consultation, we question the negative tone regarding packaging and the focus on the potential to increase both complexity and risk for retail investors. We urge the Commission to recognise that packaging does not necessarily lead to greater complexity and is intended to help retail investors engage in what might otherwise be daunting decisions on investment. Some packaged products also offer a level of protection to investors, cushioning them from the volatility of the market. PRIPs should not be categorised as ‘complex products’ and the Commission needs to be careful not to simply equate complexity with risk. To cast packaged products in a negative light runs contrary to the wider objective of encouraging European consumers to save more.

Section 2.4: Clarifying the definition

Deposits

Q. 6: Should simple non-structured deposits be excluded from the scope of the initiative? Please justify or explain your answer.

Q. 7: Do you consider Option 1 or Option 2 preferable for achieving this? Please explain your preference, and set out an alternative if necessary, with supporting evidence.

Q. 8: Should such an exclusion be extended to financial instruments which might raise similar issues as deposits (e.g. bonds), and if so, how might these be defined? Please justify or explain your answer.

Given the PRIPs definition proposed by the Commission, the ABI believes that non-structured deposits should fall outside the scope of the initiative. However, we have not formed a view on the options for achieving this exclusion.

Pensions

Q. 9: Should pensions be explicitly excluded from the PRIPs initiative at this stage? Please justify or explain your answer.

In the UK, third pillar pension products have many characteristics of a PRIP and do meet the proposed economic definition. However, pension policy is a key component of social and labour law and there is a considerable diversity in pension frameworks across the EU. Furthermore, in light of the work that is already being undertaken by the Commission in its Green Paper on Pensions, the ABI supports the exclusion of pensions from the initiative, at least in the short-term.

However, we are concerned that in excluding pensions indefinitely, there is a danger that two very different conduct regimes might develop - one for PRIPs products and one for pensions. For example, the disclosure requirements for pension and unit-linked life funds might differ, even if the under-lying investments are the same. In excluding pensions from the PRIPs initiative, the Commission should seek the development of a similar disclosure framework for comparable pensions so as to avoid driving regulatory arbitrage.

So while the ABI agrees that pensions should remain out of scope at present, we suggest the Commission should ensure that the PRIPs and Pensions Green Paper work streams are closely aligned and co-ordinated. Furthermore, the ABI believes that in the interim any such exemptions will need to allow Member States to retain additional rules on sales and disclosure for pension products where appropriate. Greater clarity is required as to the impact of such an exemption on the on-going IMD review.

Finally, we are concerned that the suggested term “for the purposes of retirement planning” in the pensions exemption could potentially allow non-pension products to avoid the PRIPs regime. A narrower definition, for example “a product or arrangement the primary purpose of which is to provide an income in retirement” would ensure that life purchased for retirement planning would not be excluded from the scope of the initiative.

Q. 10: Should annuities be treated in the same fashion? Again, please justify or explain your answer.

Q. 11: Do you have any comments on the proposed manner of achieving this exclusion?

Q. 12: Do you agree that variable annuities might need to be treated as a special case? If so, how should these be defined, and how do you think they should be addressed?

The term “variable annuity” is not widespread in the UK (where “unit-linked guarantee” is more commonly used) so we urge the Commission to clarify its understanding of the term. We understand that variable annuities are not completely distinct products but rather variants where optional capital or income protection features are made available on pension and investment products. Since variable annuities are variants of investment and pension products, their possible inclusion creates specific challenges, especially when considered alongside the pensions exclusion.

For example, under the proposals, income drawdown would be subject to the pension exemption even if the income were provided using the same packaged assets as a variable annuity. Similarly, where individuals phase their retirement and vest only part of their contract into a variable annuity the unvested fund would not be a PRIP but the contract providing the income would be.

In addition to these anomalies, there are structural differences between pension income contracts and retail investment contracts. For example, with variable lifetime annuities, the contract can only be purchased with the assets of a pension scheme which is subject to its own regulatory requirements.

These factors do not apply to variable annuities provided outside the pension regime. As a result, the ABI believes that any pension exemption from PRIPs should apply to all retirement income contracts provided through a pension scheme, including variable income annuities. However, variable annuities which are effectively an investment bond should be subject to the PRIPs regime.

We recognise that this will lead to differences in the treatment of products where the underlying funds are similar but given the fundamental differences in the products such a move is, in this instance, warranted. To avoid any arbitrage issues, the Commission should ensure that the disclosure framework for pensions is coordinated with PRIPs.

Section 2.5: Indicative list or products

Q. 13: Do you see any benefits from such an indicative list being developed? If not, please provide alternative proposals and evidence for why these might be effective?

Q. 14: Do you have any suggestions on the possible contents for such a list, including on how to define items placed on the list?

The ABI believes that an indicative list would be helpful in providing certainty for firms and national supervisors and we support the proposal to develop such a list at Level 2 since this would have the advantage of allowing the list to be updated and revised more easily. The Commission needs, however, to be wary of the risks associated with development of such a list. For example, it would prove difficult to develop since there is wide variance in products and product naming conventions across the EU. There is also a danger that an indicative list becomes, over time, a definitive and prescriptive one, amounting to product regulation by the “backdoor”. This, in turn, will inhibit innovation and competition.

In order to deal with some of these issues, national regulators should play a key role in the development of an indicative list since they are likely to know their own markets best. The Commission should retain the power to make a final decision in the event of a dispute between a firm and the national regulator or, in the case of cross border products, between national regulators.

Sections 3.1- 3.3: Legislative approach in delivering the PRIPs regime

Q. 15: Should direct sales of UCITS be covered by means of including the relevant rules within the UCITS framework?

Q. 16: Do you have any comments on the identified pros and cons of this approach, and any evidence on the scale and nature of impacts (costs as well as benefits)?

European consumers need a regulatory framework that focuses on their needs, treats them fairly and enables them to understand product and service options. The market must be underpinned by a regime that ensures consumers do not suffer detriment as a result of differences in selling practices between comparable products.

We agree the MiFID regime is an appropriate “benchmark” for insurance PRIPs and the ABI supports the expansion of MiFID sales rules to cover PRIPs. However, rather than introducing into IMD rules on the sales of PRIPs the ABI believe it would be more sensible to expand the scope of conduct of business rules in MiFID to cover the sale of all PRIPs products. In doing so, the Commission could be more certain of creating a level playing field and ensuring a co-ordinated approach, particularly given that the MiFID Directives are also currently under review.

However, we do not think that consumer protection would be best achieved by extending the appropriateness test to PRIPs. The appropriateness test gives consumers a false impression that the investment they are purchasing is suitable for their needs when, in reality, it only assesses their knowledge and experience in the investment field. Extension of the

appropriateness test could give consumers unreasonable expectations about the suitability of their investment and create additional administration and cost.

Finally, the ABI agrees that direct sales of UCITS should be covered, either by amending MiFID or the UCITS framework.

Section 4.1- 4.2b: Pre-contractual product disclosure

Q. 17: Should the design of the KIID be focused on delivering on the objective of aiding retail investment decision making? If you disagree, please justify or explain your answer.

Q. 18: Should the KIID be a separate or 'stand alone' document compared with other information that might be necessary, e.g. background information, other disclosures, or contractual information? Please justify or explain your answer.

Q. 19: What measures do you think will be necessary to ensure KIID remain streamlined and focused solely on key information?

The ABI believes that improving communication with customers is an important part of improving consumers' understanding of PRIPs. Providing information in a clear, relevant and timely way allows prospective customers to compare key product features, benefits and risks, and therefore understand whether the product is right for their needs. The ABI has also conducted research which demonstrates the benefits of standardisation in the presentation of investment risk¹.

Rather than attempting to fit product level disclosure into the constraints of the UCITS KIID it would be preferable to treat fund level disclosure as distinct from product disclosure. This might lead to the development of two separate disclosure documents, using the UCITS KIID as the basis for fund disclosure and developing a separate, high-level regime for products.

We support the principle that PRIPs disclosures should be focused on information which aids decision making and consumers should not be overburdened with unnecessary information. However, the Commission needs to be wary about using fund level disclosure as a starting point for understanding and addressing consumer decision-making on PRIPs. We believe the Commission should start from consideration of how consumers make decisions about products and the kind of information they are likely to need at the product level. For example, at the product level consumers are likely to need, and want, information which is not currently included in the UCITS KIID, such as minimum contributions, tax implications and insurance cover. Conversely, we believe that there is information on the existing KIID which cannot be easily or usefully copied over to products.

The variety of products available (both within Member States and across the EU) will also make achieving standardisation of disclosure much harder to achieve than it was at fund level. This is exacerbated by the fact that many products include a very large number of funds, so a KIID for a single fund cannot be simply expanded to make it a product-level disclosure. For example, one ABI member firm offers the choice of 167 underlying funds within a single product. A company cannot anticipate which funds a customer will choose, making the provision of information such as past performance or risk ratings as set out in the UCITS KIID challenging, if not impossible and potentially misleading.

Section 4.2 b: Level of standardisation

Q. 20: While the same broad principles should be applied to all PRIPs, should detailed implementations of some of these principles be tailored for different types of PRIP? Please justify or explain your answer, and provide examples, where relevant, of the kinds of tailoring you might envisage?

¹ Driver, R et al, *Helping consumers understand investment risk*, ABI Research Paper No 25, 2010

Q. 21: Do you foresee any difficulties in requiring the KIID to always follow the same broad structure (sequence of items, labelling of items)? Please justify or explain your answer.

Q. 22: Do you foresee any difficulties in requiring certain parts of the key information and its presentation (e.g. on costs, performance, risks, and guarantees) to be standardised and consistent as possible, irrespective of tailoring otherwise allowed? Please justify or explain your answer.

Q. 23: Can you provide examples and evidence of the costs and benefits from your experience that might be expected from greater standardisation of the presentation and content in the KIID?

Q. 24: Should the content of the KIID be controlled so that there is no possibility for firms to add additional information unless expressly allowed for?

As the consultation acknowledges, there is a far greater diversity in PRIPs products than UCITS funds making the production of harmonised or standardised documents far more challenging. On that basis, the ABI agrees on the need to allow tailoring for different products. While a disclosure document for insurance funds would probably follow the broad structure of the KIID for UCITS (including a risk indicator and fund costs) it may not be possible, or desirable, to duplicate the same structure at product level.

We welcome the Commission's interest in evaluating the costs and benefits of standardising disclosure documents. While, as we have stated, ABI research suggests standardisation of investment risk disclosure could deliver benefits, changes in disclosure documentation can be expensive and will not necessarily meet consumer needs. For example, research undertaken by the FSA in 2006 into alternative disclosure documents suggested that customers would accrue limited benefits (compared to high industry costs) from refinement of point of sale literature². So we urge the Commission and the ESAs to conduct consumer-testing to ensure that any regulatory requirements can be justified by their impact on consumer behaviour.

The ABI does not support the suggestion that firms might not be allowed to add additional information particularly if the KIID is restricted to two pages. Even with tailoring, the diversity in products makes it impossible to mandate all the necessary information that a customer may need to help them make an informed choice.

Section 4.2 c: Content of PRIPs KIID

Q. 25: Do you foresee any difficulties in applying these broad principles to the KIID for all PRIPs, as the building blocks on content and format for a 'level 1' instrument? Please justify or explain your answer.

Q. 26: Are there any other broad principles that should be considered on content and format?

Many of the general requirements proposed at Level 1 are sensible and familiar to UK insurers, for example, the requirement that the disclosures must be fair, clear and not misleading.

However, we do not support the inclusion at Level 1 of the full proposed list of mandatory information within the KIID and suggest more work needs to be done to establish what information is required at the product level.

² Ibid, Pg 7

As we have also stated, thought also needs to be given as to how practical it is to reproduce fund level requirements at a product level and whether a single, short, standardised document can reasonably straddle both product and fund disclosure.

Section 4.2 d: Allocation of responsibility for production of KII

Q. 27: Should product manufacturers be made generally responsible for preparing a KIID? Please justify or explain your answer.

Q. 28: Are you aware of any problems that might arise in the distribution of particular products should responsibilities for producing the KIID be solely placed on the product manufacturer?

Q. 29: If intermediaries and distributors might be permitted to prepare the documents in some cases, how would these cases be defined?

The ABI agrees that product manufacturers should generally be responsible for preparing disclosures at the fund and product level. However, the distributor will sometimes take responsibility for providing the KIID directly to consumers and regulators should permit advisors to provide consumers with tailored information about the individual's own policy/product.

Section 4.2 e: Labelling in relation to socially responsible investments

Q. 30: What detailed steps might be taken to improve the transparency of the social and environmental impact of investments in the KIID for PRIPs?

Q. 31: How might greater comparability and consistency in product labelling be addressed?

We do not consider it necessary to introduce specific regulatory requirements on providers to disclose their use of ethical or socially oriented investment criteria. A number of UK firms already provide ethical funds which are assessed by independent third parties such as Experts in Responsible Ethical Solutions (EIRIS) and MiFID firms are obliged to provide key information about their products and investment strategy.

Given the interest of investors in this issue (as noted by the Commission) firms have an incentive to provide information on a voluntary basis anyway. However, we suggest that socially responsible investment is an area that might merit a specific piece of work by the Commission and we would be happy to submit additional evidence and thinking into that.

Section 4.3: Interaction with existing legislation

Q. 32: Should the summary prospectus be replaced by the KIID for PRIPs? Please outline the benefits and disadvantages you see with respect to such an approach.

Q. 33: Should Solvency II disclosures provided prior to the investment decision be replaced by the KIID for PRIPs? Please outline the benefits and disadvantages you see with respect to such an approach.

Q. 34: Do you agree with the suggested approach for UCITS KIIDs?

Q. 35: Are there any disclosures, e.g. required by the existing regimes, which you believe the PRIPs KIID should not include, but which should still be disclosed, e.g. separately to the KIID? Do you have any practical examples for such elements?

The ABI believes that the UCITS KIID is good starting point for developing fund level disclosure documents. However, as set out above, we are concerned that the existing KIID

is not the right starting point for product disclosure and believe that the Commission should work with the industry and regulators to develop a separate document for products.

It is in the interests of both consumers and firms to avoid duplication in requirements, so we agree the Solvency II disclosure requirements might sensibly be replaced by the KIID for PRIPs.

Section 4.4: Issues to be addressed by implementing measures

Risk

Q. 36: What in your view will be the main challenges that will need to be addressed if a single risk rating approach is to work for all PRIPs?

Q. 37: Do you consider there are any other techniques that might be used to help retail investors compare risk?

ABI research demonstrates that people are 16% more likely to choose the most appropriate fund for their investment needs when the presentation of risk is standardised³. We are therefore supportive of the objective of producing a single risk rating at the fund level.

However, it is clear there are significant challenges in attempting to produce a risk rating for a product that could potentially be invested in multiple funds. Leaving aside the issue of providing a methodology which would produce an accurate risk rating at the product level, there would be other significant limitations. For example, the existing risk indicator is a volatility measure which takes no account of an individual's circumstances or broader product risks.

The ABI has outstanding concerns about the existing methodology for the UCITS KIID which will need to be addressed at Level 2. For example, some of our members are currently experiencing a significant level of "bunching" with the majority of their funds appearing in just two of the seven "buckets". Similarly, there are high numbers of funds switching between risk buckets on a frequent basis. The practical experience of UCITS providers in implementing the new standardised risk rating should be used to inform the development of a regime for PRIPs.

Costs

Q. 38: What in your view will be the main challenges that will need to be addressed in developing common cost metrics for PRIPs?

Q. 39: How can retail investors be aided in making 'value for money' comparisons between different PRIPs?

The diversity in the way that costs/charges are applied within products will present significant challenges in adopting a standardised approach. Currently charges can be levied at the fund level, through unit deduction and at the product level. There may also be additional charges dependent on individual circumstances (e.g. the age of the customer).

Separate disclosures of charge could be included within the fund level and product level disclosure documents with appropriate cross-links to allow the customer to understand the total charges.

Performance

Q. 40: Do you consider that performance information should always be included in the KIID?

³ Ibid, Pg 1

Q. 41: What in your view will be the main challenges that will need to be addressed in ensuring performance information can be compared between different PRIPs?

The ABI has, in the past, expressed its concern about the inclusion of past performance in the KIID. There is a tendency for consumers to use it as an indication of future performance and they often have difficulty understanding the information that is presented. We do not believe that any section on performance should be prominent within the fund disclosure document.

The use of prospective performance scenarios raises similar issues. In the UK it is common for insurers to meet the preference of consumers for individual information about saving targets by providing growth projections. This approach can be helpful to consumers in making decisions about contributions though it can be difficult for regulators and firms to set appropriate projection rates. The Commission and ESAs need to determine if the production of past performance and/or projections is a decision best taken at the national level.

Guarantees

Q. 42: Do you agree that a consistent approach to the description of guarantees and capital protection in the KIID should be sought, e.g. through detailed implementing measures, for different PRIPs?

Q. 43: What information should be provided to retail investors on the cost of guarantees?

The ABI agrees that guarantees are of significant importance to consumers and believes that the Commission/ESAs should explore how a consistent approach might be achieved. Information about guarantees should be provided at the product level and information about the costs should be included (though it may prove difficult to identify the costs of guarantees for structured products). In the UK, insurers are subject to detailed disclosure requirements in relation to with-profits products, though we have not seen evidence as to whether this provides consumers with the information that they need.