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| 10 November 2015 |

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| Reply form for the Consultation Paper on PRIIPs Key Information Documents |
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| Date: 10 November 2015 |

Responding to this paper

The European Securities and Markets Authority (ESMA) invites responses to the specific questions listed in the ESMA Consultation Paper on PRIIPs Key Information Documents, published on the ESMA website.

*Instructions*

Please note that, in order to facilitate the analysis of the large number of responses expected, you are requested to use this file to send your response to ESMA so as to allow us to process it properly. Therefore, ESMA will only be able to consider responses which follow the instructions described below:

* use this form and send your responses in Word format (pdf documents will not be considered except for annexes);
* do not remove the tags of type <ESMA\_QUESTION\_PRIIPS\_1> - i.e. the response to one question has to be framed by the 2 tags corresponding to the question; and
* if you do not have a response to a question, do not delete it and leave the text “TYPE YOUR TEXT HERE” between the tags.

Responses are most helpful:

* if they respond to the question stated;
* contain a clear rationale, including on any related costs and benefits; and
* describe any alternatives that ESMA should consider

**Naming protocol**

In order to facilitate the handling of stakeholders responses please save your document using the following format:

ESMA\_ PRIIPS \_NAMEOFCOMPANY\_NAMEOFDOCUMENT.

E.g. if the respondent were XXXX, the name of the reply form would be:

ESMA\_ PRIIPS\_XXXX\_REPLYFORM or

ESMA\_ PRIIPS\_XXXX\_ANNEX1

To help you navigate this document more easily, bookmarks are available in “Navigation Pane” for Word 2010 and in “Document Map” for Word 2007.

***Deadline***

Responses must reach us by **29 January 2016.**

All contributions should be submitted online at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading ‘Your input/Consultations’.

***Publication of responses***

All contributions received will be published following the end of the consultation period, unless otherwise requested. **Please clearly indicate by ticking the appropriate checkbox in the website submission form if you do not wish your contribution to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure.** Note also that a confidential response may be requested from us in accordance with ESMA’s rules on access to documents. We may consult you if we receive such a request. Any decision we make is reviewable by ESMA’s Board of Appeal and the European Ombudsman.

***Data protection***

Information on data protection can be found at [www.esma.europa.eu](http://www.esma.europa.eu) under the headings ‘Legal notice’ and ‘Data protection’.

# Introduction

Please make your introductory comments below, if any:

<ESMA\_COMMENT\_PRIIPS\_1>

Assuralia welcomes the possibility to provide feedback on the draft regulatory technical standards (RTS) and would like to underline that we also welcome the possibility to actively engage in any future work on the PRIIPs-KID. From our expertise with regard to the Belgian insurance market we have detected a number of specific issues concerning the draft RTS:

To Assuralia it is more important to give *correct, meaningful and clear information* to the customer regarding a PRIIP rather than to strive for an absolute comparability between products that have fundamentally different features. The way the return is achieved, the guarantees that are offered or the investment period that is required differs significantly between PRIIPs. Ultimately trying to achieve such absolute comparison between PRIIPs will not aid, but mislead the customer as to the nature of, and the comparability between the different PRIIPs. In particular, *insurance characteristics* should be valued for what they offer the customer:

* A biometric risk premium is not an investment cost, but a price for an additional (and often optional) insurance cover a customer can choose to subscribe, which in itself is not an investment (i.e. a PRIIP);
* Profit sharing is a meaningful part of the investment return of an insurance-PRIIP, regardless of whether this is mandatory or discretionary profit sharing. This should be shown in the performance scenarios.

Furthermore, the *different sections* of the PRIIPs-KID *need to be* *coherent*. If the cost section contains a ‘reduction-in-yield’ percentage then it is preferential that the performance scenarios are not net of costs, otherwise the customer will double-count the costs in the performance scenarios.

Assuralia regrets that the *principle of proportionality* was not taken into account more prominently. The proposed methodologies are completely new to the sector and very complex. In Assuralia’s view an equivalent outcome could have been achieved by making more use of qualitative criteria and existing data and methodologies. In particular:

* Using the 5 year tenor criterion in the market risk methodology leads to guaranteed insurance PRIIPs not automatically falling under category I due to their long term nature. Instead these products fall under category III and have to perform return-simulations even though they guarantee the capital and a fixed interest rate and these simulations therefore have no added value;
* Insurers have to abide by strict solvency requirements. Assuralia advocates to always accredit a credit risk class 1 to a guaranteed insurance-PRIIP if the insurer fulfils the minimal solvency capital requirements (i.e. taking into account all transitional measures of Omnibus II), instead of determining the credit risk either on a rating by a rating agency or a default assignment of credit quality step 3;
* Certain important mitigating factors for credit risk should be taken into consideration when determining the risk category of the product, such as the existence of a guarantee scheme and the preferential creditor status a customer enjoys for a guaranteed insurance-PRIIP, before all other creditors.

The PRIIPs-document will be all the more misleading if customers would *compare a unit-linked life insurance to a UCIT* based on their respective KID. The customer will not be aware that different methodologies and elements are taken into account to determine the risk, return and costs in the standardised document for UCITs.

Lastly, it is absolutely crucial that insurers can *implement the proposed methodologies* within the very tight timeframe they dispose of. It should be noted that the insurance sector is not familiar with the currently proposed methodologies and has difficulties understanding how to apply them to insurance products. Any additional guidance in the RTS and any supporting documents such as spreadsheet templates would therefore be very welcome. More fundamentally, Assuralia supports the *one-year extension* requested by Insurance Europe. Even with more guidance and supporting documents the timeframe for implementation will remain too short.

<ESMA\_COMMENT\_ PRIIPS\_1>

***Question 1***

*Would you see merit in the ESAs clarifying further the criteria set out in Recital 18 mentioned above by way of guidelines?*

<ESMA\_QUESTION\_PRIIPS\_1>

The criteria set out in Recital 18 are in Assuralia’s view sufficiently clear and do not require additional guidelines.

If, however, the ESA’s are of the opinion that they need to be clarified, the ESA’s could draw inspiration from the criteria that are being used on the Belgian market to determine which structured products for the retail market are to be considered as particularly complex. These criteria are based on the same principles that are mentioned in Recital 18. They can be resumed as follows:

* The *underlying* of the derivative component is *not sufficiently accessible*, because the relevant market data or the specific characteristics of the (combination of) underlyings cannot be observed by means of the customary channels (internet, printed press). A customized selection of individual shares or a customized index can be considered accessible where a number of cumulative conditions are being met1;
* The *derivative component's strategy is considered overly complex* on account of the difficulty in determining the value offered by the product (such as where a teaser is being used for the distribution of the product, the investor may incur capital loss without being able to participate to at least the same degree in the increase of the underlying, a minimal change in de performance of the underlying can have a disproportionate impact on the payment of a return);
* The *calculation formula for the return is overly complex*, i.e. when the formula comprises more than three mechanisms (with the exception both of mechanisms that provide for a minimum return or that limit the volatility of the underlying, such as a floor or a “cliquet”, …);
* There is *insufficient transparency* regarding the costs, credit risk and market value.

Belgian legislation also determines that certain financial products are not suitable to be sold to retail investors, such as life settlements, or products that invest in so-called ‘unconventional assets’ that are not correlated with the traditional financial market and are speculative and complex in their nature.2

In any case, the criteria should be consistent with the criteria to identify non-complex insurance-based investment product that have to be set down in the IDD Delegated Acts.

1 These cumulative conditions are the following:

* The selection or the customized index is sufficiently diversified;
* The selection or the customized index is based on economic foundations and is in the interest of the customer;
* The marketing material used in distribution provides information on the composition and the economic foundations of the selection and, for customized indexes, on the composition, investment policy and frequency of rebalancing, and
* Throughout the lifetime of the product, the website of the distributor contains information on the composition of the selection or of the customized index, either whenever there is a change in one of the shares among the selection, or at least every three months in the case of a customized index.

2 Cfr. the royal decree of April, 24th of 2014 approving the regulation concerning a ban on the sales of certain financial products to non-professional customers: “Koninklijk besluit tot goedkeuring van het reglement van de Autoriteit voor Financiële Diensten en Markten betreffende het commercialiseringsverbod van bepaalde financiële producten aan niet-professionele cliënten”, “Arrêté royal portant approbation du règlement de l’Autorité des services et marchés financiers concernant l’interdiction de commercialisation de certains produits financiers auprès

des customers de détail”.

<ESMA\_QUESTION\_PRIIPS\_1>

***Question 2***

1. *Would you agree with the assumptions used for the proposed default amounts? Are you of the opinion that these prescribed amounts should be amended? If yes, how and why?*
2. *Would you favour an approach in which the prescribed standardised amount is the default option, unless the PRIIP has a known required investment amount and price which can be used instead?*

<ESMA\_QUESTION\_PRIIPS\_2>

Assuralia is of the opinion that the proposed default amounts are correct and realistic amounts. Assuralia is also in favour of using the required investment amount if there is any (instead of the default amounts) as this will enhance customer comprehension of the PRIIP.

<ESMA\_QUESTION\_PRIIPS\_2>

***Question 3***

*For PRIIPs that fall into category II and for which the Cornish Fisher expansion is used as a methodology to compute the VaR equivalent Volatility do you think a bootstrapping approach should be used instead? Please explain the reasons for your opinion?*

<ESMA\_QUESTION\_PRIIPS\_3>

Assuralia regrets that the *principle of proportionality* was not taken into account more prominently. The proposed methodologies are completely new to the sector and very complex. In Assuralia’s view an equivalent less onerous outcome can be achieved by making more use of qualitative criteria and existing data and methodologies. The insurance sector will face a significant challenge in having to implement the proposed regulatory technical standards and this within an impossibly tight timeframe.

It would be very helpful to *illustrate how the methodology needs to be applied* through a concrete set of examples showing how a risk class is appointed to the different types of PRIIPs. In particular, it would also be interesting to compare the outcome to the outcome of a UCITs-methodology to understand the difference between both. Assuralia questions why this difference in approach is needed, as this will create an unlevel playing field and will also misguide a customer as to the comparability of both risk labels.

Assuralia sees *no point in* *performing simulations for the guaranteed part in an insurance contract* as the results of these simulations will always be the same (i.e. the guarantee). However, using the 5 year tenor criterion in the market risk methodology leads to guaranteed insurance PRIIPs not automatically falling under category I due to their long term nature, even though these products guarantee the initial net investment at any time of the duration of the product. Instead these products fall under category III and have to perform return-simulations even though they guarantee a fixed interest rate and these simulations therefore have no added value. Assuralia is thus of the opinion that the criterion of the 5 year tenor to determine whether a product falls under category I to calculate the market risk is an arbitrary criterion that is not relevant for insurance PRIIPs. We would welcome the RTS to be amended in this sense. Assuralia would also like to point out that most of the Belgian guaranteed products pay out discretionary profit sharing on top of the guaranteed interest rate. This results in the final return of the guaranteed insurance PRIIP not being exactly known upfront, but it does not influence the guarantee given on the initial investment. The possibility to award a discretionary profit sharing in a Belgian insurance PRIIP therefore does not make the product more risky than any other guaranteed PRIIP as it creates no downside volatility on the return.

Another aspect that hinders the implementation of the proposed methodology is the *lack of access to the detailed information* necessary to apply the mathematical models. A PRIIPS-manufacturer often proposes or integrates products from third parties in his PRIIP. The detailed data sets necessary to apply the mathematical models are currently not shared between third parties and the PRIIPs-manufacturer. There is no legal obligation for the third party who disposes of this information to automatically transfer or share this information with the PRIIPs-manufacturer. We would also like to point out that the conclusion of contractual agreements organising the information exchange necessary for the implementation of the new methodologies will require substantial additional time.<ESMA\_QUESTION\_PRIIPS\_3>

***Question 4***

*Would you favour a different confidence interval to compute the VaR? If so, please explain which confidence interval you would use and state your reasons why.*

<ESMA\_QUESTION\_PRIIPS\_4>

Assuralia *has not been able to test* the proposed confidence interval on real life products, because the proposed methodology is not sufficiently clear and detailed.

Assuralia however, regrets that the *principle of proportionality* was not taken into account more prominently. The proposed methodologies are completely new to the sector and very complex. In Assuralia’s view an equivalent outcome could have been achieved by making more use of qualitative criteria and existing data and methodologies. The insurance sector will face a significant challenge in having to implement the proposed regulatory technical standards and this within a very tight timeframe.

Assuralia reiterates that it would be very helpful to *illustrate how the methodology needs to be applied* through a concrete set of examples showing how a risk class is appointed to the different types of PRIIPs. In particular, it would also be interesting to compare the outcome to the outcome of a UCITs-methodology to understand the difference between both. Assuralia questions why this difference in approach is needed, as this will create an unlevel playing field and will also misguide a customer as to the comparability of both risk labels.

Another aspect that hinders the implementation of the proposed methodology is the *lack of access to the detailed information* necessary to apply the mathematical models. A PRIIPS-manufacturer often proposes or integrates products from third parties in his PRIIP. The detailed data sets necessary to apply the mathematical models are currently not shared between third parties and the PRIIPs-manufacturer. There is no legal obligation for the third party who disposes of this information to automatically transfer or share this information with the PRIIPs-manufacturer. We would also like to point out that the conclusion of contractual agreements organising the information exchange necessary for the implementation of the new methodologies will require substantial additional time. .<ESMA\_QUESTION\_PRIIPS\_4>

***Question 5***

*Are you of the view that the existence of a compensation or guarantee scheme should be taken into account in the credit risk assessment of a PRIIP? And if you agree, how would you propose to do so?*

<ESMA\_QUESTION\_PRIIPS\_5>

The draft RTS rightly state that certain credit risk mitigating and escalating factors should be taken into account. Assuralia points out that insurers need to abide by *new extensive solvency requirements (i.e. Solvency II)*. Assuralia advocates to always accredit a credit risk class 1 if an insurer fulfils the minimal solvency capital requirements (i.e. taking into account all transitional measures of Omnibus II).

Furthermore Assuralia is of the opinion that at least the following *important mitigating factors* should be part of this list:

* The existence of a state guarantee scheme (e.g. up to 100.000 euro);
* Whether the customer enjoys a preferential creditor status for the product.

These factors *reduce the credit risk* to which the customer is exposed and should be acknowledged in the risk assessment of the product *by lowering the credit risk class* of the product. *Simply mentioning* the existence of a fundamental element such as *a guarantee scheme is insufficient* for the customer to understand its impact on the overall risk of the PRIIP. The RTS acknowledge that the elements mentioned in a narrative below the risk label are those elements that are not adequately captured through this risk label. However, the existence of a guarantee scheme is not reflected at all in the risk label.

From a more fundamental point of view Assuralia is of the opinion that *qualitative criteria should suffice* to catalogue guaranteed insurance products and capitalisation products. The risk exposure through these products is much lower than through other PRIIPs (and sometimes even negligible). Having to perform quantitative simulations to determine the market risk does not add anything for a guaranteed insurance-PRIIP and should ultimately lead to the same appreciation (i.e. simulating a guaranteed return does not make sense as the outcome is always the guaranteed return).

<ESMA\_QUESTION\_PRIIPS\_5>

***Question 6***

*Would you favour PRIIP manufacturers having the option to voluntarily increase the disclosed SRI? In which circumstances? Would such an approach entail unintended consequences?*

<ESMA\_QUESTION\_PRIIPS\_6>

As the draft RTS contain a very detailed and complex methodology to determine the SRI Assuralia does *not see the need or the use* to have the possibility to voluntarily increase the disclosed SRI. It would weaken even more the comparability between products that is being sought. Moreover, allowing this option would introduce legal uncertainty and an arbitrary assignment of the risk label to a PRIIP.

However, a manufacturer should have the possibility to add a *warning* for the customer explaining that the SRI found in the PRIIPs KID cannot be compared to the SRRI in the document for UCITs due to the difference in scope and methodology being used in both documents.

<ESMA\_QUESTION\_PRIIPS\_6>

***Question 7***

*Do you agree with an adjustment of the credit risk for the tenor, and how would you propose to make such an adjustment?*

<ESMA\_QUESTION\_PRIIPS\_7>

Assuralia does *not agree* that a longer tenor by definition implies a higher credit risk. For insurance PRIIPs for instance extensive solvency requirements apply (set at the European level) which attenuate any possible credit risk linked to the insurer as the manufacturer of the PRIIP. Assuralia advocates to always accredit a credit risk class 1 to a guaranteed insurance-PRIIP if the insurer fulfils the minimal solvency capital requirements (i.e. taking into account all transitional measures of Omnibus II).

Moreover, several *other mitigating factors* should be taken into account when determining the credit risk of a PRIIP, such as:

* The existence of a guarantee scheme,
* Whether the customer enjoys a preferential creditor status for the product.

<ESMA\_QUESTION\_PRIIPS\_7>

***Question 8***

*Do you agree with the scales of the classes MRM, CRM and SRI? If not, please specify your alternative proposal and include your reasoning.*

<ESMA\_QUESTION\_PRIIPS\_8>

Assuralia is of the opinion that the proposed *alternative scale* on p. 9 of the consultation paper *gives a more balanced outcome* as it does not put manufacturers without a credit rating as much at a disadvantage as the scale mentioned in the draft RTS on p. 42.

For *hybrid products*, where the initial investment accrues according to a guaranteed interest rate and where the profit sharing is, or can -at the choice of the customer- be invested in a unit-linked part of the product it is unclear how to determine the overall risk class of the product.

<ESMA\_QUESTION\_PRIIPS\_8>

***Question 9***

*Are you of the opinion that for PRIIPs that offer a capital protection during their whole lifespan and can be redeemed against their initial investment at any time over the life of the PRIIP a qualitatively assessment and automatic allocation to MRM class 1 should be permitted?*

*Are you of the opinion that the criteria of the 5 year tenor is relevant, irrespective of the redemption characteristics?*

<ESMA\_QUESTION\_PRIIPS\_9>

Assuralia is of the opinion that PRIIPs that offer a capital protection during their whole lifespan such as *guaranteed insurance PRIIPs should automatically be allocated to MRM class 1*. By using the 5 year tenor criterion in the market risk methodology guaranteed insurance PRIIPs do not fall under category I as they are long term products by nature, even though these products guarantee the initial net investment at any time of the duration of the product. Instead they fall under category III and have to perform return-simulations even though they guarantee a fixed interest rate and these simulations therefore have no added value. Furthermore, extensive solvency requirement were set at the European level to ensure an appropriate and prudential solvency of insurance undertakings across Europe.

Moreover, it should be noted that the Regulation itself foresees a *separate section on early withdrawal*. Indeed, early redemption of an insurance-PRIIP is not the default option, but an explicit choice of the customer. The other sections regarding risk, performance and costs should therefore *only reflect the characteristics of the product at the recommended holding date*.

<ESMA\_QUESTION\_PRIIPS\_9>

***Question 10***

*Are you aware of other circumstances in which the credit risk assessment should be assumed to be mitigated? If so, please explain why and to what degree it should be assumed to be mitigated?*

<ESMA\_QUESTION\_PRIIPS\_10>

The draft RTS rightly state that certain credit risk mitigating and escalating factors should be taken into account. Assuralia points out that insurers need to abide by extensive solvency requirements. Assuralia advocates to *always accredit a credit risk class 1 if an insurer fulfils the minimal solvency capital requirements* (i.e. taking into account all transitional measures of Omnibus II).

In addition Assuralia is of the opinion that at least the following *important mitigating factors* should be part of this list:

* The existence of a guarantee scheme;
* Whether the customer enjoys a preferential creditor status for the product.

These factors reduce the credit risk to which the customer is exposed and should be acknowledged in the risk assessment of the product by lowering the credit risk class of the product. Simply mentioning the existence of a fundamental element such as a guarantee scheme is insufficient for the customer to under-stand its impact on the overall risk of the PRIIP.

<ESMA\_QUESTION\_PRIIPS\_10>

***Question 11***

*Do you think that the look through approach to the assessment of credit risk for a PRIIP packaged into another PRIIP is appropriate?*

<ESMA\_QUESTION\_PRIIPS\_11>

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<ESMA\_QUESTION\_PRIIPS\_11>

***Question 12***

*Do you think the risk indicator should take into account currency risk when there is a difference between the currency of the PRIIP and the national currency of the investor targeted by the PRIIP manufacturer, even though this risk is not intrinsic to the PRIIP itself, but relates to the typical situation of the targeted investor?*

<ESMA\_QUESTION\_PRIIPS\_12>

It seems appropriate to *differentiate* between those situations where the *currency risk is inherent to the PRIIP* and those where this is not the case. If a PRIIP pays out in another currency than that of the country where it was sold the currency risk should be taken into account if the customer invested an amount in the local currency. However, in Assuralia’s view *a disclaimer is sufficient* to make the customer aware of this risk. The disclaimer c in appendix 1 (p. 49) should be rewritten to reflect the situation where the currency risk is inherent to the PRIIP. If however, the customer invested an amount in the same currency as used for the pay-out there is no currency risk inherent to the PRIIP s and this should not be reflected in the risk indicator not mentioned in a disclaimer.

<ESMA\_QUESTION\_PRIIPS\_12>

***Question 13***

*Are you of the opinion that the current Consultation Paper sufficiently addresses this issue? Do you it is made sufficiently clear that the value of a PRIIP could be significantly less compared to the guaranteed value during the life of the PRIIP? Several alternatives are analysed in the Impact Assessment under policy option 5: do you see any additional analysis for these assessment?*

<ESMA\_QUESTION\_PRIIPS\_13>

It should be noted that the Regulation itself foresees a *separate section on early withdrawal*. Indeed, early redemption of an insurance-PRIIP is not the default option, but an explicit choice of the customer. The other sections regarding risk, performance and costs should therefor *only reflect the characteristics of the product at the recommended holding date*.

<ESMA\_QUESTION\_PRIIPS\_13>

***Question 14***

*Do you agree to use the performance fee, as prescribed in the cost section, as a basis for the calculations in the performance section (i.e. calculate the return of the benchmark for the moderate scenario in such a way that the return generates the performance fee as prescribed in the cost section)? Do you agree the same benchmark return should be used for calculating performance fees for the unfavourable and favourable scenarios, or would you propose another approach, for instance automatically setting the performance fees to zero for the unfavourable scenario? Please justify your proposal.*

<ESMA\_QUESTION\_PRIIPS\_14>

Even though insurance PRIIPs are not concerned by this matter we would like to highlight that the *performance scenarios* *should reflect reality as much as possible*. This means that a performance fee should be taken into account in those scenarios where the *return that triggers the pay-out of a performance fee is generated*.

Similarly, if a PRIIP pays out *profit sharing* (whether it is discretionary or other) this should be reflected in the performance scenarios and recognised clearly in the RTS. This is the real return that a customer will receive for an insurance PRIIP and should be illustrated in the moderate and favourable scenario as opposed to the unfavourable scenario where no profit sharing can be given. This would also be coherent with art. 185, 5 of SII, which requires insurers to provide the customer with three different scenarios of the possible return above the contractually agreed return before the conclusion of the contract, regardless of the type of profit sharing that could be the source of this return.

Additionally, Assuralia asks if some examples could be given of what is meant by discretionary benefits under *par. 12 of Annex IV*. At a first glance this paragraph does not seem applicable to insurance PRIIPs on the Belgian market.

<ESMA\_QUESTION\_PRIIPS\_14>

***Question 15***

*Given the number of tables displayed in the KID and the to a degree mixed consumer testing results on whether presentation of performance scenarios as a table or a graph would be most effective, do you think a presentation of the performance scenarios in the form of a graph should be preferred, or both a table and a graph?*

<ESMA\_QUESTION\_PRIIPS\_15>

Assuralia would like to highlight that presenting the performance *net of costs* and at the same time presenting a RIY-figure to the customer, might lead to a double counting of the effect of costs on return. A customer being presented with a RIY might get the impression that he needs to deduct this percentage from the presented return in the performance scenarios. This can be avoided by presenting the gross performance together with the RIY, which illustrates the compound effect of costs on the return.

As to the *presentation of the performance* scenarios: for long term products such as insurance-PRIIPs (that also have a 30 day cooling off period) it does not seem representative to shown the situation after 1 and 3 years. It will only confuse the customer as to the long term nature of the product. Assuralia asks that the intermediate periods to be shown in the performance table can be chosen to best fit the duration of the PRIIP, for instance by showing the return after one-third and two-third of the recommended holding period. Even though this would give different years for different types of PRIIP, this should not pose a problem as a customer will typically want to compare between products with the same duration.

Assuralia is of the opinion that *all types of* *profit sharing* (discretionary and mandatory profit sharing alike) should be included in the performance scenarios. Not including certain types of profit sharing would be misleading and would not correctly illustrate the possible return of the product. It would also be very confusing for the customer if he does not find the same possible returns in the different information he receives from the insurer or intermediary regarding a guaranteed insurance PRIIPs with discretionary profit sharing. Art. 185,5 of SII requires insurers to provide the customer with three different scenarios of the possible return above the contractually agreed return (specimen calculations) before the conclusion of the contract, without making a distinction as to the type of profit sharing that could be the source of this return.

Furthermore, it should be possible for a manufacturer to add a *warning* for the customer explaining that the information found in the PRIIPs KID cannot be compared to the performance-information in the document for UCITs due to the difference in scope and methodology being used in both documents (especially for non-structured UCITs where only past performance is shown).

Assuralia understands that the *insurance scenario* should only be shown if there is an inherent insurance cover all customers receive when subscribing the insurance PRIIIP. The KID for Insurance-PRIIPs where only the technical provisions are payed out at an uncertain moment in time (upon death of the insured or if he reaches a certain age) should not need to include an insurance scenario as it will give no added information compared to the other three scenarios. Additionally, any optional risk insurance cover can be described narratively in the section “what is this product”, but does not need to be taken into account in the performance scenarios or the cost section, as the customer has no obligation to take out this insurance cover. We suggest clarifying this further in the RTS.

Lastly, Assuralia is very concerned by the fact that the draft RTS propose to include *additional guidelines* setting out detailed requirements as to the assumptions that PRIIPs-manufacturers can use when selecting the different scenarios, for which the timing is not known yet. Insurers will already be confronted with an impossibly limited time to implement the RTS. Any further delay will jeopardize the correct implementation of the PRIIPs-KID.

<ESMA\_QUESTION\_PRIIPS\_15>

***Question 16***

*Do you agree with the scope of the assets mentioned in paragraph 25 of Annex VI on transaction costs for which this methodology is prescribed? If not, what alternative scope would you recommend?*

<ESMA\_QUESTION\_PRIIPS\_16>

Assuralia has certain remarks as to the scope of the insurance ‘costs’:

* We wish to point out that the PRIIPs level 1 Regulation dedicates a specific section of the KID to the surrender. We agree that *surrender costs* are important and must be displayed in a fully transparent way to retail investors. However, in order to avoid confusion and double-counting of the early redemption fee, it is key that early redemption fees are not treated as a cost and do not appear in the costs. These deductions are justified in accordance with actuarial principles and serve to protect the community of policyholders (e.g. against anti selection). Then again, this issue should be better addressed in the section of the KID on surrender value;
* *Cost of holding required capital* is already implicitly covered in the performance and risk section of the KID through the height of the guarantee the insurer can offer (more narrow spread between the performance scenarios). In general, performance scenarios should be consistent with the information on costs included in the cost section of the KID: the higher the guarantees, the lower the risk class, and the more narrow the spread between the performance scenarios (e. g. a lower maximum value). This implies, however, that no fictitious, additional guarantee costs are assumed (more narrow spread between the performance scenarios, less risk). Costs of holding capital is achieved by collective investment management, which is usually influenced by the corresponding legal provisions, e.g. in Solvency II, that enable insurance undertakings to design options and guarantees. It is, in particular, unclear how such a cost would need to be calculated;
* In order to achieve meaningful comparisons between products, the inherent insurance premium and the investment costs cannot be aggregated in one figure. Moreover, this biometric risk premium is not an investment cost and thus has no place in the cost section, but should be detailed in the section “what is this product” alongside the explanation of the insurance cover. See our answers to questions 19 and 20;
* As far as *profit sharing* is concerned, non-distributed profits can never be seen as a cost, as the retail investor is not entitled to receive them by default. Profit sharing is an extra-contractual bonus that a retail investor may receive. Considering non-distributed profit as an opportunity cost for the retail investor takes the exercise beyond the objective of the PRIIPs-document. A retail investor has to deal with opportunity costs for each financial decision, even for the decision not to invest at all.

<ESMA\_QUESTION\_PRIIPS\_16>

***Question 17***

*Do you agree with the values of the figures included in this table? If not, which values would you suggest? (please note that this table could as well be included in guidelines, to allow for more flexibility in the revision of the figures)*

<ESMA\_QUESTION\_PRIIPS\_17>

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<ESMA\_QUESTION\_PRIIPS\_17>

***Question 18***

*Do you agree that the monetary values indicated in the first table are a sum of costs over the respective holding periods? Or should the values reflect annualized amounts? If you prefer annualized amounts, which method for annualisation should be used (e.g. arithmetic average or methods that consider discounting effects)?*

<ESMA\_QUESTION\_PRIIPS\_18>

As Assuralia understands it the *section on costs is inextricably linked to the section on performance scenarios*. The performance scenarios do not only illustrate the performance at the recommended holding period, but also its evolution during the term of the product, through intermediate periods. It therefore seems logical and consistent to give a sum of costs over the different periods (intermediate periods and recommended holding period) to show the evolution of costs over time. However, it should be clear for the customer that he should not add up the costs in the different columns, but should look at each column independently.

We also reiterate our point that for *coherence* reasons and to *avoid double counting* on the part of the customer the performance scenarios should not be net of costs. The RIY will illustrate the impact of costs on the performance of the PRIIP.

<ESMA\_QUESTION\_PRIIPS\_18>

***Question 19***

*Do you think that estimating the fair value of biometric risk premiums as stated in paragraph 55(b) of Annex VI would raise any technical or practical difficulties?*

<ESMA\_QUESTION\_PRIIPS\_19>

Assuralia understands that the insurance scenario should only be shown if there is an inherent insurance cover all customers receive when subscribing the insurance PRIIIP. Likewise, only the biometric risk premium for this inherent insurance cover could be taken on-board in the KID. Any *optional risk insurance cover* could be described narratively in the section “what is this product”, but should not need to be taken into account in the performance scenarios or the cost section, as the customer has no obligation to take out this insurance cover.

Secondly, in order to achieve meaningful comparisons between products, the *inherent biometric risk premium* and the investment costs cannot be aggregated in one figure and must be presented in separate sections of the KID. This biometric risk premium is not an investment cost per se and thus has no place in the cost section, but should be detailed in the section “what is this product” alongside the explanation of the insurance cover. Effective comparison should be ensured for customers. Meaningful comparison remains the key objective of the PRIIPs Regulation and the insurance sector considers that only separating the inherent biometric risk premium from the investment costs could achieve such an objective.

In this context, Assuralia would welcome the disclosure of both the inherent insurance benefit as well as the fact that a biometric risk premium has to be paid for this in the section *‘What is this product?”*. Assuralia would also like to highlight that the KID is a pre-contractual document. The *exact biometric risk premium cannot be communicated upfront* in a pre-contractual phase as:

* The biometric risk premium will depend on the personal characteristics of the person that needs to be insured (such as his age and health status);
* The biometric risk premium will also depend on the individual choice of the consumer, the amount of insurance cover they seek;
* For unit-linked products, the death cover depends on the development of the funds, which is unknown.

<ESMA\_QUESTION\_PRIIPS\_19>

***Question 20***

*Knowing that the cost element of the biometric risk premium is included in the total costs calculation, how do you think the investor might be most efficiently informed about the other part of the biometric risk premium (i.e. the fair value), and/or the size of biometric risk premium overall? Do you consider it useful to include the fair value in a separate line in the first table, potentially below the RIY? Or should information on the fair value be disclosed in another part of the KID (for instance, the “What is this product?” section, where the draft RTS currently disclose biometric risk premiums in total, and/or in the performance section)? What accompanying narrative text do you think is needed, and where should this be placed, including specifically narrative text in the cost section?*

<ESMA\_QUESTION\_PRIIPS\_20>

Assuralia understands that the *insurance scenario* should only be shown if there is an inherent insurance cover all customers receive when subscribing the insurance PRIIIP. Insurance-PRIIPs where only the technical provisions are payed out at an uncertain moment in time (upon death of the insured or if he reaches a certain age) do not charge a biometric risk premium and are thus not concerned by this rule. The RTS should clearly recognise this for the sake of legal certainty. Likewise, only the biometric risk premium for this inherent insurance cover could be taken on-board in the KID. Any optional risk insurance cover can be described narratively in the section “what is this product”, but does not need to be taken into account in the performance scenarios or the cost section, as the customer has no obligation to take out this insurance cover.

Secondly, in order to achieve meaningful comparisons between products, the inherent biometric risk premium and the investment costs cannot be aggregated in one figure and must be presented in separate sections of the KID. Effective comparison should be ensured for customers. Meaningful comparison remains the key objective of the PRIIPs Regulation and the insurance sector considers that only separating the inherent biometric risk premium from the investment costs could achieve such an objective.

In this context, Assuralia would welcome the disclosure of both the inherent insurance benefits as well as the fact that a biometric risk premium has to be paid for this in the section ‘What is this product?”. Assuralia would also like to highlight that the KID is a pre-contractual document. The *exact biometric risk premium cannot be communicated upfront* in a pre-contractual phase as:

* The biometric risk premium will depend on the personal characteristics of the person that needs to be insured (such as his age and health status);
* The biometric risk premium will also depend on the individual choice of the consumer, the amount of insurance cover they seek;
* For unit-linked products, the death cover depends on the development of the funds, which is unknown.

<ESMA\_QUESTION\_PRIIPS\_20>

***Question 21***

*Given evidence as to the difficulties consumers may have using percentage figures, would you prefer an alternative presentation of the second table, solely using monetary values instead? As with the first table, please also explain what difficulties you think might arise from calculating monetary values, and whether this should be on an annualized basis, and if so, how?*

<ESMA\_QUESTION\_PRIIPS\_21>

*As to the presentation of the first table*:

For long term products such as insurance-PRIIPs (that also have a 30 day cooling off period) it does not seem representative to shown the situation after 1 and 3 years. It will only confuse the customer as to the long term nature of the product. Assuralia asks that the intermediate periods to be shown in the performance table can be chosen to best fit the duration of the PRIIP, for instance by showing the return after *one-third and two-third of the recommended holding period*. Even though this would give different years for different types of PRIIP, this should not pose a problem as a customer will typically want to compare between products with the same duration.

*As to the presentation of the second table*:

Assuralia would welcome a column in which the manufacturer could give additional information on the costs, such as the degressive nature of certain costs, a fixed or minimal cost, or to enumerate situations in which certain costs do not apply, …).

Furthermore, a manufacturer should have the possibility to add a warning for the customer explaining that the information found in this document cannot be compared to the information on costs in the document for UCITs due to the difference in scope and methodology being used in both documents.

<ESMA\_QUESTION\_PRIIPS\_21>

***Question 22***

*Given the number of tables shown in the KID, do you think a more graphic presentation of the breakout table should be preferred?*

<ESMA\_QUESTION\_PRIIPS\_22>

*As to the presentation of the first table*:

For long term products such as insurance-PRIIPs (that also have a 30 day cooling off period) it does not seem representative to shown the situation after 1 and 3 years. It will only confuse the customer as to the long term nature of the product. Assuralia asks that the intermediate periods to be shown in the performance table can be chosen to best fit the duration of the PRIIP, for instance by showing the return after *one-third and two-third of the recommended holding period*. Even though this would give different years for different types of PRIIP, this should not pose a problem as a customer will typically want to compare between products with the same duration.

<ESMA\_QUESTION\_PRIIPS\_22>

***Question 23***

*The example presented above includes a possible way of showing the variability of performance fees, by showing the level for all three performance scenarios in the KID, highlighting the ‘moderate‘ scenario, which would be used for the calculation of the total costs. Do you believe that this additional information should be included in the KID?*

<ESMA\_QUESTION\_PRIIPS\_23>

As Assuralia understands it the *section on costs is inextricably linked to the section on performance scenarios*. It therefor seems logical to use the performance illustrated in the ‘moderate’ scenario as a basis to calculate the costs.

<ESMA\_QUESTION\_PRIIPS\_23>

***Question 24***

*To reduce the volume of information, should the first and the second table of Annex VII be combined in one table? Should this be supplemented with a breakdown of costs as suggested in the graphic above?*

<ESMA\_QUESTION\_PRIIPS\_24>

As Assuralia understands it the *section on costs is inextricably linked to the section on performance scenarios*. It therefor seems logical to use the performance illustrated in the ‘moderate’ scenario as a basis to calculate the costs.

A manufacturer should have the possibility to add a *warning* for the customer explaining that the information found in this document cannot be compared to the information on costs in the document for UCITs due to the difference in scope and methodology being used in both documents.

<ESMA\_QUESTION\_PRIIPS\_24>

***Question 25***

*In relation to paragraph 68 a) of Annex VI: Shall the RTS specify that for structured products calculations for the cost free scenario have always to be based on an adjustment of the payments by the investor?*

<ESMA\_QUESTION\_PRIIPS\_25>

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<ESMA\_QUESTION\_PRIIPS\_25>

***Question 26***

*Regarding the first table of the cost section presented in Annex VII, would you favour a detailed presentation of the different types of costs, as suggested in the Annex, including a split between one-off, recurring and incidental costs? Alternatively, would you favour a shorter presentation of costs showing only the total costs and the RIY?*

<ESMA\_QUESTION\_PRIIPS\_26>

Assuralia would like to point out that at the moment of draw up of the KID the exact costs of the PRIIP are not always known. This especially holds true for structured products. Assuralia therefore requests that both cost tables *clearly indicate that the costs mentioned are maximum costs*, as is the case in the UCITs KID.

Assuralia would like to highlight that presenting the performance *net of costs* and at the same time presenting a RIY-figure to the customer, might lead to a double counting of the effect of costs on return. A customer being presented with a RIY might get the impression that he needs to deduct this percentage from the presented return in the performance scenarios. This can be avoided by presenting the gross performance together with the RIY, which illustrates the compound effect of costs on the return.

Furthermore, a manufacturer should have the possibility to add a *warning* for the customer explaining that the information found in this document cannot be compared to the information on costs in the document for UCITs due to the difference in scope and methodology being used in both documents.

<ESMA\_QUESTION\_PRIIPS\_26>

***Question 27***

*Regarding the second table of the cost section presented in Annex VII, would you favour a presentation of the different types of costs showing RIY figures, as suggested in the Annex, or would you favour a presentation of costs under which each type of costs line would be expressed differently, and not as a RIY figure -expressed as a percentage of the initial invested amount, NAV, etc.?*

<ESMA\_QUESTION\_PRIIPS\_27>

For Assuralia it is of the upmost importance to *ensure coherence* between both tables.

Assuralia would also like to point out that at the moment of draw up of the KID the exact costs of the PRIIP are not always known. This especially holds true for structured products. Assuralia therefore requests that both cost tables clearly *indicate that the costs mentioned are maximum costs*, as is the case in the UCITs KID.

When the KID is translated in the *different EU languages* it should also be ensures that the terms used (such as the RIY) are meaningful and understandable for customers.

Furthermore, The ESAs proposed explanation for the *calculation of the reduction in yield* needs to be clarified. As such, paragraphs 66 to 68 seem very difficult to read and understand.

For instance, r and i are essentially internal rate of return respectively before and after costs. Thus, they are gross return and net return, and the difference between the two is the costs. In this context, the method for calculation could be expressed in a simpler and clearer way.

<ESMA\_QUESTION\_PRIIPS\_27>

***Question 28***

*Do you have any comments on the problem definition provided in the Impact Assessment?*

*Are the policy issues that have been highlighted, in your view, the correct ones? If not, what issues would you highlight?*

*Do you have any views on the identified benefits and costs associated with each policy option?*

*Is there data or evidence on the highlighted impacts that you believe needs to be taken into account?*

*Do you have any views on the possible impacts for providers of underlying investments for multi-option products, and in particular indirect impacts for manufacturers of underlying investments used by these products, including where these manufacturers benefit from the arrangements foreseen until the end of 2019 under Article 32 of the PRIIPs Regulation?*

*Are there significant impacts you are aware of that have not been addressed in the Impact Assessment? Please provide data on their scale and extent as far as possible.*

<ESMA\_QUESTION\_PRIIPS\_28>

It is absolutely crucial that insurers can *implement* the proposed methodologies properly, which is impossible to do within the very tight timeframe they dispose of today. It should be noted that the insurance sector is not familiar with the currently proposed methodologies and has difficulties understanding how to apply them to insurance products. As it currently stands the RTS will have a significant impact with regard to the resources and time necessary to implement the PRIIPs KID. Assuralia therefore supports the *one-year extension* requested by Insurance Europe. Even with more guidance and supporting documents the timeframe for implementation will remain too short.

Any *additional guidance* in the RTS and any supporting document (such as spreadsheet templates) would be very welcome, as is, more fundamentally, *a more proportionate approach* in the methodologies to be used. For example, for the risk label an equivalent outcome could have been achieved by making more use of qualitative criteria and existing data and methodologies.

Assuralia would like to point out that a *multi-option product* is not per se a product with multiple target markets, but a product that offers different investment options to a customer. The characteristics of an insurance-PRIIP in general do not change for customers of different age classes and the products are not directed to specific subsets of age classes. However, it is true that the price for the insurance cover will vary according to the age of the customer, amongst others. The explanatory text correctly states that the amount involved in covering the biometric risk premium will differ substantially with the age of the insured person, but this is not the only driver behind the price of the insurance cover. For example, the amount invested and the cover requested by the customer will also influence the height of the biometric risk premium.

According to the explanatory text manufacturers should be able to show these effects in the KID. One of the ways to do this is by defining a set of target groups (where variables as the age and probably the total premium differ) and prepare separate KIDs for these target groups to be able to show them more tailored information. However, the regulation introduces a precontractual standardised KID. It does not require from the manufacturer to give (semi-)personalised information. Having to introduce several KIDs for one and the same PRIIP has several negative consequences:

* It will confuse the customer as to which KID applies to his situation and might even create the impression that the document contains personalised information;
* It will hamper sales through the internet where access to certain KIDs cannot easily be controlled;
* It will confuse the distributor as to which KID applies to his particular customer;
* It will create additional implementing costs for insurers offering the customer a possibility to take out an insurance coverage, while other PRIIPs-manufacturers will not bear such additional costs.

More fundamentally, Assuralia fears this approach is not in line with article 25 of IDD and the POG-guidelines that require that the product approval process specifies an identified target market for each product.

Lastly, it is not very clear how the different rules of the draft RTS are to be applied to *annuities*, given the particular characteristics of such products. Assuralia would welcome any further clarification in the RTS on this.

<ESMA\_QUESTION\_PRIIPS\_28>