European Securities and Markets Authority

EUROPEAN BANKING AUTHORITY

EUROPEAN INSURANCE AND OCCUPATIONAL PENSIONS AUTHORITY

JOINT COMMITTEE OF THE EUROPEAN SUPERVISORY AUTHORITIES

Response form for the Joint Consultation Paper concerning amendments to the PRIIPs KID

16 October 2019

Date: 16 October 2019
ESMA 30-201-535

JOINT COMMITTEE OF THE EUROPEAN SUPERVISORY AUTHORITIES

Responding to this paper

The European Supervisory Authorities (ESAs) welcome comments on this consultation paper setting out proposed amendments to Commission Delegated Regulation (EU) 2017/653 of 8 March 20171 (hereinafter "PRIIPs Delegated Regulation").

The consultation package includes:
- The consultation paper
- Template for comments

The ESAs invite comments on any aspect of this paper. Comments are most helpful if they:
- contain a clear rationale; and
- describe any alternatives the ESAs should consider.

When describing alternative approaches the ESAs encourage stakeholders to consider how the approach would achieve the aims of Regulation (EU) No 1286/20142 (hereinafter "PRIIPs Regulation").

Instructions

In order to facilitate analysis of responses to the Consultation Paper, respondents are requested to follow the below steps when preparing and submitting their response:

- Insert your responses to the questions in the Consultation Paper in the present response form.
- Please do not remove tags of the type <ESA_QUESTION_PKID_1>. Your response to each question has to be framed by the two tags corresponding to the question.
- If you do not wish to respond to a given question, please do not delete it but simply leave the text "TYPE YOUR TEXT HERE" between the tags.
- When you have drafted your response, name your response form according to the following convention: ESA_PKID_nameofrespondent_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESA_PKID_ABCD_RESPONSEFORM.

[1] COMMISSION DELEGATED REGULATION (EU) 2017/653 of 8 March 2017 supplementing Regulation (EU) No 1286/2014 of the European Parliament and of the Council on key information documents for packaged retail and insurance-based investment products (PRIIPs) by laying down regulatory technical standards with regard to the presentation, content, review and revision of key information documents and the conditions for fulfilling the requirement to provide such documents

[2] Regulation (EU) No 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products (PRIIPs), OJ L 352, 9.12.2014, p. 1.

- The consultation paper is available on the websites of the three ESAs and the Joint Committee. Comments on this consultation paper can be sent using the response form, via the ESMA website under the heading 'Your input - Consultations' by **13 January 2020**.

- Contributions not provided in the template for comments, or after the deadline will not be processed.

Publication of responses

All contributions received will be published following the close of the consultation, unless you request otherwise in the respective field in the template for comments. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with ESAs rules on public access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by ESAs Board of Appeal and the European Ombudsman.

Data protection

The protection of individuals with regard to the processing of personal data by the ESAs is based on Regulation (EU) 2018/1725[3]. Further information on data protection can be found under the Legal notice section of the EBA website and under the Legal notice section of the EIOPA website and under the Legal notice section of the ESMA website.

[3] Regulation (EU) 2018/1725 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, OJ L 295, 21.11.2018, p. 39.

General information about respondent

Name of the company / organisation	Insurance Sweden
Activity	Insurance and Pension
Are you representing an association?	☒
Country/Region	Sweden

Introduction

Please make your introductory comments below, if any:

<ESA_COMMENT_PKID_1>
As a member of Insurance Europe, Insurance Sweden fully shares the views expressed in the consultation response submitted by Insurance Europe. The purpose of this response is to underline and elaborate further the arguments against the proposed amendments on multi-option products (MOPs), questions 50-54. The proposals under section 10.3.3 of the consultation is not linked to any specific questions; Insurance Sweden´s response to this section is therefore included under question 50.

Insurance Sweden welcomes any regulatory changes that lead to better information for consumers and enhanced consumer understanding of financial services. However, regarding the PRIIPs rules and contents of the KID, such amendments to the existing regulatory framework require thorough impact assessment and a proper, holistic consumer testing of all aspects of the KID, to ensure that the amendments are contributing to an improvement of the KID and thus, that consumers are provided with meaningful information. Against this background, Insurance Sweden firmly believes that changes to the regulatory requirements should not be done as a result of the current consultation document, but instead within the context of the official overall review foreseen by the Level 1 PRIIPs regulation.

Regarding the specific proposed amendments, Insurance Sweden strongly objects to those regarding MOPs and, in particular, to any changes that would require information regarding the PRIIP as such in the specific information document (SID).

In conclusion, the proposed amendments would lead to:

- A PRIIPs KID that is less suitable for insurance products and even more confusing for consumers
- Loss of consumer trust
- Unnecessary compliance costs
- Extensive impact on the Swedish insurance market as insurance companies would no longer be able to use the existing SIDs produced by the fund companies. This would cause significant costs and risk insurance companies having to drastically reduce their number of underlying investment options which would lead to a less diversified market than currently offered, all to the detriment of the consumer.

<ESA_COMMENT_PKID_1>

Q1 : Are there provisions in the PRIIPs Regulation or Delegated Regulation that hinder the use of digital solutions for the KID?

<ESA_QUESTION_PKID_1>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_1>

Q2 : Do you agree that it would be helpful if KIDs were published in a form that would allow for the information to be readily extracted using an IT tool?

<ESA_QUESTION_PKID_2>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_2>

Q3 : Do you think that the amendments proposed in the consultation paper should be implemented for existing PRIIPs as soon as possible before the end of 2021, or only at the beginning of 2022?

<ESA_QUESTION_PKID_3>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_3>

Q4 : Do you think that a graduated approach should be considered, whereby some of the requirements would be applied in a first step, followed by a second step at the beginning of 2022?

<ESA_QUESTION_PKID_4>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_4>

Q5 : Are there material issues that are not addressed in this consultation paper that you think should be part of this review of the PRIIPs Delegated Regulation? If so, please explain the issue and how it should be addressed.

<ESA_QUESTION_PKID_5>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_5>

Q6 : Do you have comments on the modifications to the presentation of future performance scenarios being considered? Should other factors or changes be considered?

<ESA_QUESTION_PKID_6>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_6>

Q7 : If intermediate scenarios are to be included, how should they be calculated for Category 3 PRIIPs (e.g. structured products)? If intermediate scenarios are not shown in the performance section, which performance assumption should be used for the 'What are the costs?' section?

<ESA_QUESTION_PKID_7>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_7>

Q8 : If a stress scenario is included in the presentation of future performance scenarios, should the methodology be modified? If so, how?

<ESA_QUESTION_PKID_8>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_8>

Q9 : Do you agree with how the reference rate is specified? If not, how should it be specified?

<ESA_QUESTION_PKID_9>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_9>

Q10 : The revised methodology specifies that the risk premium is determined by future expected yields. The methodology further specifies that future expected yields should be determined by the composition of the PRIIP decomposed by asset class, country and sector or rating. Do you agree with this approach? If not, what approach would you favour?

<ESA_QUESTION_PKID_10>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_10>

Q11 : The ESAs are aware that historical dividend rates can be averaged over different time spans or that expected dividend rates can be read from market data providers or obtained from analyst reports. How should the expected dividend rates be determined?

<ESA_QUESTION_PKID_11>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_11>

Q12 : How should share buyback rates be estimated?

<ESA_QUESTION_PKID_12>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_12>

Q13 : Do you agree with the approach for money-market funds? Are there other assets which may require a similar specific provisions?

<ESA_QUESTION_PKID_13>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_13>

Q14 : The methodology proposes that the future variance be estimated from the 5-year history of daily returns. Should the volatility implied by option prices be used instead? If so, what estimate should be used if option prices are not available for a particular asset (equities namely)?

<ESA_QUESTION_PKID_14>

TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_14>

Q15 : Do you think compensatory mechanisms for unforeseen methodological faults are needed? If yes, please explain why.

<ESA_QUESTION_PKID_15>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_15>

Q16 : Do you favour any of the options above? If so, which ones? How would you ensure that the information in the KID remains comparable for all products?

<ESA_QUESTION_PKID_16>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_16>

Q17 : Are there any other compensatory mechanisms that could address unforeseen methodological faults? If yes, please explain the mechanism; explain how it ensures that scenario information in the KID allows investors to compare PRIIPs, and explain how the information for similar products from different manufacturers remains sufficiently consistent.

<ESA_QUESTION_PKID_17>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_17>

Q18 : What are your views on the use of a simplified approach such as the one detailed above, instead of the use of probabilistic methodologies with more granular asset specific requirements?

<ESA_QUESTION_PKID_18>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_18>

Q19 : Do you consider the use of a single table of growth rates appropriate? If no, how should the methodology be amended?

<ESA_QUESTION_PKID_19>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_19>

Q20 : More generally, do your views about the use of a probabilistic methodology vary depending on the type of product (e.g. structured products vs non-structured products, short-term vs long-term products)? For which type of products do you see more challenges to define a probabilistic methodology and to present the results to investors?

<ESA_QUESTION_PKID_20>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_20>

Q21 : Do you think these alternative approaches should be further assessed? If yes, what evidence can you provide to support these approaches or aspects of them?

<ESA_QUESTION_PKID_21>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_21>

Q22 : Are there any other approaches that should be considered? What evidence are you able to provide to support these other approaches?

<ESA_QUESTION_PKID_22>
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<ESA_QUESTION_PKID_22>

Q23 : Do you think illustrative scenarios should be included in the KID as well as probabilistic scenarios for structured products?

<ESA_QUESTION_PKID_23>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_23>

Q24 : If not, do you think illustrative scenarios should replace probabilistic scenarios for structured products?

<ESA_QUESTION_PKID_24>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_24>

Q25 : Do you agree with this approach to define PRIIPs which would show illustrative performance scenarios using the existing definition of Category 3 PRIIPs? If not, why not? Where relevant, please explain why this approach would not be appropriate for certain types of Category 3 PRIIPs?

<ESA_QUESTION_PKID_25>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_25>

Q26 : Would you be in favour of including information on past performance in the KID?

<ESA_QUESTION_PKID_26>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_26>

Q27 : Would your answer to the previous question be different if it were possible to amend Article 6(4) of the PRIIPs Regulation?

<ESA_QUESTION_PKID_27>
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<ESA_QUESTION_PKID_27>

Q28 : Do you think that it can be more appropriate to show past performance in the form of an average (as shown in the ESA proposal for consumer testing) for certain types of PRIIPs? If so, for exactly which types of PRIIPs?

<ESA_QUESTION_PKID_28>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_28>

Q29 : Do you have any comments on the statement that would supplement the display of past performance (e.g. with regard to the presentation of costs which are not included in the net asset value (NAV))?

<ESA_QUESTION_PKID_29>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_29>

Q30 : Are you of the opinion that an additional narrative is required to explain the relationship between past performance and future performance scenarios?

<ESA_QUESTION_PKID_30>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_30>

Q31 : Do you see merit in further specifying the cases where the UCITS/AIF should be considered as being managed in reference to a benchmark, taking into account the provisions of the ESMA Questions and Answers on the application of the UCITS Directive[4]?

<ESA_QUESTION_PKID_31>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_31>

Q32 : Do you see the need to add additional provisions for linear unit-linked insurance-based investment products or linear internal funds?

<ESA_QUESTION_PKID_32>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_32>

Q33 : Do you agree that a fixed intermediate time period / exit point should be used instead of the current half the recommended holding period to better facilitate comparability?

<ESA_QUESTION_PKID_33>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_33>

[4] See "Section II – Key Investor Information Document (KIID) for UCITS" (in particular, Q&A 8) of the Q&A document available at: https://www.esma.europa.eu/sites/default/files/library/esma34-43-392_qa_ucits_directive.pdf

Q34 : In this case (of a fixed intermediate time period), do you agree to show costs if the investor would exit after 5 years for all PRIIPs with a recommended holding period of at least 8 years? Or do you prefer a different approach such as:

<ESA_QUESTION_PKID_34>
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<ESA_QUESTION_PKID_34>

Q35 : Do you think it would be relevant to either (i) use an annual average cost figure at the recommended holding period, or (ii) to present both an annual average cost figure and a total (accumulated) costs figure?

<ESA_QUESTION_PKID_35>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_35>

Q36 : Do you think that it would be helpful, in particular for MiFID products, to also include the total costs as a percentage of the investment amount?

<ESA_QUESTION_PKID_36>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_36>

Q37 : In this context, are there PRIIPs for which both performance fees and carried interests are applied?

<ESA_QUESTION_PKID_37>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_37>

Q38 : Do you agree with this analysis from the ESAs? If yes, what are your views on the extent to which fees related to the management of the underlying real estate assets, i.e. the properties themselves, should be taken into account in the calculation of the cost indicators?

<ESA_QUESTION_PKID_38>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_38>

Q39 : Do you agree with the ESAs' preferred option 3 to revise the cost tables?

<ESA_QUESTION_PKID_39>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_39>

Q40 : If not, which option do you prefer, and why?

<ESA_QUESTION_PKID_40>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_40>

Q41 : In particular, do you think that the proposed changes to the presentation of the impact of costs on the return in percentage terms (i.e. including reduction in return before and after costs) is an improvement on the current presentation?

<ESA_QUESTION_PKID_41>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_41>

Q42 : Do you have other comments on the proposed changes to the cost tables?

<ESA_QUESTION_PKID_42>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_42>

Q43 : What are your views on the appropriate levels of these thresholds? Please provide a justification for your response.

<ESA_QUESTION_PKID_43>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_43>

Q44 : If UCITS would fall in the scope of the PRIIPs Regulation, do you agree that the coexistence of the UCITS KII (provided to professional investors under the UCITS Directive) and the PRIIPs KID (provided to retail investors under the PRIIPs Regulation) would be a negative outcome in terms of overall clarity and understandability of the EU disclosure requirements? Are you of the view that the co-legislators should therefore reconsider the need for professional investors to receive a UCITS KII, as the coexistence of a PRIIPs KID together with a UCITS KII (even if not targeted to the same types of investors) would indeed be confusing, given the differences in the way information on costs, risks and performance are presented in the documents? Alternatively, are you of the view that professional investors under the UCITS Directive should receive a PRIIPs KID (if UCITS would fall in the scope of the PRIIPs Regulation)?

<ESA_QUESTION_PKID_44>
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<ESA_QUESTION_PKID_44>

Q45 : What are your views on the issue mentioned above for regular savings plans and the potential ways to address this issue?

<ESA_QUESTION_PKID_45>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_45>

Q46 : Do you agree that these requirements from Article 4 should be extended to all types of PRIIPs, or would you consider that it should be restricted to Management Company of UCITS or AIFs?

<ESA_QUESTION_PKID_46>
TYPE YOUR TEXT HERE

<ESA_QUESTION_PKID_46>

Q47 : Do you agree that this requirement should be extended to all types of PRIIPs, or would you consider that it should be restricted to Management Company of UCITS or AIF?

<ESA_QUESTION_PKID_47>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_47>

Q48 : Do you agree that these requirements should be extended to all types of PRIIPs, or would you consider that they should be restricted to the Management Company of the UCITS or AIF?

<ESA_QUESTION_PKID_48>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_48>

Q49 : Do you have any comments on the proposed approaches in relation to the analysis and proposals in this Section, and in particular on the extent to which some of the abovementioned requirements should be extended to other types of PRIIPs?

<ESA_QUESTION_PKID_49>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_49>

Q50 : Do you think this proposal would be an improvement on the current approach?

<ESA_QUESTION_PKID_50>
Before discussing the suggested amendments, we believe a brief description of the Swedish market is necessary in order to illustrate the complexity when it comes to MOPs. This complexity is particularly raised in relation to the proposed amendment in Article 14.1(e) to include a reference to the relevant PRIIPs and Article 14.1(d) to include a reference regarding costs in the SID.

Brief description of the Swedish IBIPS market

In Sweden, assets under management related to insurance products within the scope of the PRIIP Regulation, but including pensions, in 2018 amounted to SEK 1.350 billion (currently approximately EUR 128 billion). Pensions excluded, the capital for the same period amounted to SEK 400 billion (currently approximately EUR 38 billion). Thus, the proposed amendments are of utmost importance for the Swedish life insurance market.

Most insurance products in Sweden within the scope of the PRIIP Regulation are MOPs. For most of those MOPs, the consumer chooses entirely on his or her own how to invest the insurance premiums. The consumer generally has a very large number, several hundreds and sometimes thousands, of investments options to choose from. In addition, an underlying investment option is normally provided in several different MOPs from several different providers (insurance companies). The consumer selects the MOPs, either from the same manufacturer or from different manufacturers, and the amount to invest in each MOP. Therefore, there is an almost endless number of combinations of MOPs and underlying investment options in the Swedish insurance market.

This means that the Swedish MOP industry can de facto not use Article 10(a) in the Level 2 PRIIPs Regulation, but depends on the current Article 10(b) to fulfil the requirements of the PRIIPs regulation. This article enables the PRIIPs manufacturer to produce the generic KID and the provider of the underlying investment option, usually a fund company, to produce the SID.

The proposed reference in Article 14.1(e) to the relevant PRIIP

In Section 10.3.3 of the consultation, the ESAs propose to require a reference in Article 14.1(e) to the relevant PRIIP in the SID. First of all, this proposal is in conflict with the Level 1 Regulation. Hence, already for this very reason, it is not possible to change Level 2 regulation and include Article 14.1 (e) as proposed.

Article 6(3) of the Level 1 PRIIP Regulation stipulates that the generic KID shall state where and how more detailed information relating to the investment products backing the underlying investment options can be found. Hence, according to Level 1, the generic KID must contain a reference to the SID but not the other way around. There is no support at Level 1 for requirements to fuse information regarding the PRIIPs as such with information regarding the underlying investment option in the SID; the proposed amendment therefore conflicts with Level 1.

Furthermore, to ensure a continued proper functioning of the Swedish life insurance market, it is of utmost importance to keep the current Article 10(b) and Article 14 without the proposed addition. This enables the PRIIPs manufacturer, i.e. the insurance company, to produce the generic KID and the provider of the underlying investment option, usually a fund company, to produce the SID (currently UCITs KIIDs and, after the end of the UCITs exemption, PRIIPs KIDs). One generic KID, produced by the insurance company, and one SID, produced by the manufacturer of the underlying option, can then be used for the wide number of combinations of PRIIPs and underlying investment options that constitutes the Swedish market.

Requiring a non-generic reference to the relevant PRIIPs in the SID would change this whole set-up. The insurance companies would have to produce several hundreds of SIDs themselves, one for each combination of PRIIPs and underlying investment option. This would be very challenging in case UCITS KIIDs (or, after the end of the UCITs exemption, PRIIPs KIDs) produced by the fund companies are provided as SIDs for the underlying funds (until the end of the UCITS exemption), as the PRIIPs manufacturer would be required to modify the UCITS KIIDs. Alternatively, each fund company would have to produce several SIDs for one product in addition to the documents already produced for stand-alone investments in order to include the PRIIPs reference.

It shall be noted, that the current exemption in Article 14.2 of the Level 2 PRIIPs Regulation was introduced after the first version of that regulation was rejected by the European Parliament specifically in order to let PRIIP manufacturers use the fund companies' UCITs KIIDs as SIDs until the end of the UCITs exemption (since there were no PRIIP KIDs from the fund companies available to use as SIDs at that point). The purpose was of course that the PRIIPs manufacturers after the end of the UCITs exemption should be able to use the fund companies' PRIIPs KIDs as SIDs. The introduction of a requirement for the insurance companies to insert a non-generic reference to the PRIIP in the SID would effectively put the insurance industry in the same difficult situation as before the rejection of the RTS, i.e. not being able to use the fund companies' existing KIIDs/KIDs. It is not reasonable to require the insurance companies to produce hundreds of SIDs when the relevant documents are already produced by the fund companies, at a tremendous cost for the consumers or resulting in that the number of investment options drastically would diminish.

As illustrated, requiring a non-generic reference to the relevant PRIIPs in the SID would have a detrimental practical effect on the Swedish market and cause severe difficulties and large costs for the PRIIPs manufacturers and ultimately for the consumers. At the same time, there is no evidence that the consumer would benefit from this proposal. Logically, the consumer will begin reading the generic KID which refers to the SID. Requiring an additional reference in the SID, back to the generic KID, would not clarify the structure between the two documents. The result would instead be even more confusing information for the consumers.

Moreover, it should be stressed that in the consultation paper (page 52), the ESAs explicitly state that the proposals relating to MOPs "does not aim to promote a reduction in the number of options that are offered". A requirement to include a reference to the relevant PRIIPs in the SID would in practice, as described above, risk Swedish PRIIP manufacturers having to drastically reduce their number of underlying investment options in order to be able to comply with the regulations, to the detriment of the consumers.

Due to the practical difficulties for insurance companies to produce SIDs for external funds, there is also an obvious risk that insurance companies will continue to offer their own funds while reducing the number of external funds offered. This would lead to an insurance market with much less diversity of investment options than currently offered to consumers.

The proposed addition in Article 14.1(d) on costs

Section 10.3.3 in the consultation also contains the proposal to require the PRIIP manufacturer to *"include a short narrative so that the retail investor is aware whether the costs shown in the specific information document include all of the costs that they will have to pay when investing in that investment option via the MOP".*

For the reasons stated above it is not possible to have SIDs fitted to each possible MOP where the underlying investment option could be available. If this is the case, the proposed requirement in Article 14.1(d) would also force the manufacturer to produce large amounts of SIDs depending on whether the consumer is buying the fund with or without an insurance wrapper for example.

Furthermore, there is no support at Level 1 for requirements to fuse information regarding the PRIIPs as such with information regarding the underlying investment option in the SID; the proposed amendment therefore conflicts with Level 1. If such information should be added, we would like to emphasize that it must be completely generic and general and without any cross-reference to a certain MOP, e.g. "additional costs may occur". It must however be questioned whether such an addition will de facto bring about any improvement at all from a consumers' perspective.

The proposal in Article 14.2 to provide complete information for at least the four most commonly selected options

The proposal to provide complete information for at least the four most commonly selected MOPs options or combination of options would be burdensome and complex to implement - especially for open architecture MOPs - and would overload consumers with information, while contradicting the Level 1 requirement to provide standardised information in a short and concise manner. The proposal is apparently conflicting with the IDD rules on POG (Product Oversight and Governance), as further described below.

As regards the proposed reference to the relevant PRIIPs in 14.2 (d) and (e), such a requirement would also conflict the Level 1 Regulation in the same way as is described in the previous section (i.e. the specific information regarding the underlying investment is only required to cover the underlying investment as such, not the underlying investment together with the PRIIP).

As to the impact on consumers:

• Consumers would be overloaded with documents and figures: instead of one document (plus the information on the specific options), consumers would need to read at least five documents or more. In any case, consumers would not understand how to read the generic KID in conjunction with the documents providing complete information for the most commonly selected options and with the specific information documents for the other options.

• "Information overload" does not help nor facilitate consumers' choice; consumers would not be able to understand the differences between the different complete information documents, nor to compare the complete information documents produced by different providers as each provider would follow his own assumptions.

• Also, it must be reiterated that the PRIIPs KID is a pre-contractual document and does not allow for any recommendation regarding different investment. If consumers are presented with the most commonly selected options, there is an apparent risk that this is perceived as a recommendation from the product manufacturer, even if selected options are not the most suitable to their specific needs and objectives based on the suitability test and the advice they receive under IDD. In this respect, it is not clear how to avoid conflicts between the requirement to provide complete information on most commonly selected MOPs op-

tions and the suitability test provisions. In addition, some customers access the products only through digital distribution channels and are not subject to direct advice. For these groups of consumers, it is apparent that the selected most common options will be perceived as recommended, regardless of whether they are in line with that individual's investment profile.

• Finally, as the proposal has not been tested on consumers, there is no solid basis to argue that adding information on MOPs could effectively help consumers' understanding.

As to the complexity of the implementation:

• The proposal is not easy to understand and the assumptions to be used to identify the most commonly selected options are not clear. The most commonly selected options may vary from distribution channel to distribution channel, depending on consumers' profiles and based on the evolution of the market (e.g. shifts in consumers' preferences, economic cycles and new trends).

• It is also not clear how the most commonly selected options should at the same time reflect the diversity of investment objectives or risks exposure (or costs, as mentioned at the ESAs public hearing of 29 November 2019) that the MOPs may offer. In our understanding, this could oblige product manufacturers to produce at least four complete information documents for each type of investment objective, four complete information documents for each risk range and four complete information documents for each cost range. Product manufacturers would be obliged to produce several different and not coherent sets of complete information documents.

• In case consumers' preferences are equally distributed among all different options of a MOPs – or all options are relevant to reflect the diversity of the MOPs objectives, risk exposure or cost range – the product manufacturer would need to produce complete information for all of them. In the absence of legal certainty (and of a mandatory disclaimer on the purpose, scope and limitations of the complete information on the most commonly selected options), product manufacturers might also decide to produce complete information for all options, only to avoid liability risks. This would mean that option 10b will in practice not be applicable or available to manufacturers, thus contradicting the Level 1 Regulation. It could also lead to manufacturers being forced to reduce the number of underlying options available to consumers because the costs for producing and administration complete PRIIPs information for a large number of options is not justifiable.

• Considering the above, product manufacturers would be obliged to keep monitoring and updating the extensive information on the most commonly selected options, with an unclear frequency. This kind of market monitoring is not prescribed by the Level 1 Regulation and not even by IDD POG requirements.

• In any case, the assumptions used to identify the most commonly selected options would be arbitrary and product manufacturers would be exposed to legal uncertainty and liability risks in case of Authorities' controls or consumers' litigations. Indeed, the identification of the most commonly selected options and the production of adequate complete information pose significant compliance risks in relation to article 6.1 of the Level 1 Regulation (the PRIIPs KID "shall be accurate, fair, clear and not misleading").

• The format to be used to provide the complete information is not defined by the ESAs and the methodologies for the calculations of combinations of options are not specified. So it is not clear what should be included if the most commonly selected options are combinations of options.

• Furthermore, it should be noted that an investment option can be an integral part of the total investment of the PRIIP (e.g. for hybrid products). Therefore, it would be inconsistent to include the information on the overall product in the information document on a particular investment option.

Also from a distribution and product offering point of view, the new requirement could have the unintended negative consequence to create a "nudging" effect: the most commonly selected options might artificially become the most frequently required by consumers or the most easily recommended by distributors – just because they are described in new, readily available standard documents that are perceived as "default"

investment solutions. Such distortion in the market could have pro-cyclical effects, reduce the number and types of options available in the market and in the end the possibility to adapt the MOP to the different demands and needs of different consumers.

Importantly, the proposal to link this new requirement to the POG provisions is also not clear and would imply additional burdens (e.g. in terms of continuous updates) and legal risks (e.g. when a new product is set up it is not possible to predict which four funds will be the most commonly selected).

In addition, the POG product approval process only applies to newly developed insurance products or significant adaptations to products offered in the market and not to those that existed before the POG provisions entered into force. The proposal to link this new requirement to the POG provisions is therefore not realistic.

To conclude, the proposed changes to Article 14 would for a market like the Swedish one have severe impact on the possibilities for product manufacturers to continue to offer a wide variety of financial products to consumers. Thus, the Swedish insurance market strongly objects to the suggested alterations.
<ESA_QUESTION_PKID_50>

Q51 : Do you envisage significant practical challenges to apply this approach, for example for products which allow the investor to choose between a wide range or large number of options?

<ESA_QUESTION_PKID_51>
See answer to Q50
<ESA_QUESTION_PKID_51>

Q52 : Do you see any risks or issues arising from this approach in relation to consumer understanding, for instance whether the consumer will understand that other combinations of investment options are also possible?

<ESA_QUESTION_PKID_52>
See answer to Q50
<ESA_QUESTION_PKID_52>

Q53 : Do you think this proposal would be an improvement on the current approach?

<ESA_QUESTION_PKID_53>
Insurance Sweden does not believe that this proposal would improve the quality and understandability of the information provided for MOPs. On the contrary, as recognized by the ESAs at page 54 of the consultation paper, “it introduces significantly more figures in the generic KID, which may be an overload of information for certain types of retail investors.”

According to the illustration provided by the ESAs in the consultation paper, the new cost presentation format could include up to 84 figures: such a display of different digits is not easy to read and would only confuse consumers, who would not be able to draw any conclusions. The proposed new requirements would thus obviously be in conflict with what the field of study of behavioural finance has concluded regarding the driving forces behind the financial decisions that people make.

Moreover, the risk class of the assets is not necessarily linked to different costs, so the split by risk class would not represent a realistic nor meaningful approach. At the same time, the classification of the funds per risk class from 1 to 7 might not be fully clear or easy to understand for consumers. Besides, we have the impression that in case the MOPs’ underlying funds are all belonging to 1 or 2 risk classes, the new cost table would not be more detailed or accurate than the current range of costs.

Additionally, according to the Level 1 Regulation, the generic KID may – at most – consist of three A4-pages. For many manufacturers, it is already a challenge to fit all the information currently required in three pages. Any amendments to Level 2 requiring more information in the generic KID might conflict the Level 1 Regulation and must therefore be avoided.
<ESA_QUESTION_PKID_53>

Q54 : Are there other approaches or revisions to the requirements for MOPs that should be considered?

<ESA_QUESTION_PKID_54>
Insurance Sweden is of the strong opinion that obviously more time and effort is needed to assess, develop and test appropriate solutions for MOPs. Without fulfilling these requirements in the regulatory process, The EU Commission´s Better Regulation agenda is not being adhered to.
<ESA_QUESTION_PKID_54>

Q55 : Do you have any comments on the preliminary assessment of costs and benefits?

<ESA_QUESTION_PKID_55>
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<ESA_QUESTION_PKID_55>

Q56 : Are you able to provide information on the implementation costs of the proposed changes, in particular regarding, (1) the proposed revised methodology for performance scenarios (using a reference rate and asset specific risk premia), and (2) the overall changes to the KID template?

<ESA_QUESTION_PKID_56>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_56>

Q57 : Are there significant benefits or costs you are aware of that have not been addressed?

<ESA_QUESTION_PKID_57>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_57>