

<p style="text-align: center;"><b>Comments Template on DP-14-IMD Discussion Paper on Conflicts of Interest in direct and intermediated sales of insurance-based investment products (PRIIPs)</b></p>		<p><b>Deadline 22 July 2014 18:00 CET</b></p>
Name of Company:	BVI (the German fund association)	
Disclosure of comments:	<p>EIOPA will make all comments available on its website, except where respondents specifically request that their comments remain confidential.</p> <p><i>Please indicate if your comments on this DP should be treated as confidential, by deleting the word <b>Public</b> in the column to the right.</i></p>	Public
<b>Reference</b>	<b>Comment</b>	
General Comment	<p>BVI welcomes the opportunity to contribute its views to the pending discussion on the appropriate treatment of conflicts of interest in the context of insurance distribution.</p> <p>The initiative at hand represents an important opportunity to further align the conduct of business standards applicable at the point of sale in relation to investment products. Given that the amendments to the IMD included in Article 91 of the MiFID II package mirror the MiFID II requirements in terms of identification and management of conflicts of interest, it is appropriate to base the Level 2 implementing measures on the corresponding Level 2 standards under the MiFID regime. This approach will certainly contribute to more effective investor protection in accordance with the broader concept of the PRIIPs initiative and simultaneously enhance the consistency in the distributors' conduct of business.</p> <p><b>Consistency of standards governing distribution of investment products is crucial in terms of effective protection of the interests of investors given that equivalent investment propositions may be offered in different product</b></p>	

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**wrappers and distributors could be induced to engage in regulatory arbitrage by focusing their services on products with less stringent requirements. Additionally, consistency is of utmost importance in order to ensure fair competition across financial sectors. Therefore, we believe that EIOPA should strive to achieve encompassing consistency with the applicable conflict of interest provisions under MiFID, in particular regarding third party payments.** Indeed, proper treatment of third party payments (inducements) is key to the achievement of regulatory goals mentioned above. Hence, we would like to focus our further comments on Q9 of the Discussion Paper dealing specifically with this aspect of conflicts of interest management.

BVI represents the interests of the German investment fund and asset management industry. Its 81 members currently handle assets of EUR 2.1 trillion in both investment funds and mandates. BVI enforces improvements for fund-investors and promotes equal treatment for all investors in the financial markets. BVI's investor education programmes support students and citizens to improve their financial knowledge. BVI's members directly and indirectly manage the capital of 50 million private clients in 21 million households. (BVI's ID number in the EU register of interest representatives is 96816064173-47). For more information, please visit [www.bvi.de](http://www.bvi.de).

Q1.  
Q2.  
Q3.  
Q4.  
Q5.  
Q6.  
Q7.

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Q8.

Q9.

We entirely agree with EIOPA that management of conflicts of interest associated with inducements should be subject to further regulatory clarification. As correctly pointed out in the Discussion Paper, commission payments and other inducements received or paid out by distributors may give rise to a variety of conflicts of interest which in turn may cause individual harm to clients purchasing insurance investment products.

We also support the notion to treat the conditions for legitimacy of inducements laid down in Article 26 of the MiFID I Implementing Directive as a starting point for the EIOPA's regulatory work. Concurrently, however, we would like to encourage EIOPA to liaise closely with ESMA as regards the pending efforts on the implementation of the MiFID II requirements. Under MiFID II, the conditions formerly included in Article 26 of the Implementing Directive have been enshrined by the Level 1 text while remaining unchanged in substance (Cf. Article 24(9) of Directive 2014/65/EU (MiFID II)). Further implementing measures are foreseen in order to facilitate more consistent application of the already familiar criteria across the Member States. ESMA is currently consulting on the details of such implementing measures with the view of submitting its final advice to the Commission six months after the entry into force of MiFID II, i.e. before 3 January 2015 (Cf. Section 2.15 on page 118-125 of the ESMA Consultation Paper on MiFID II/MiFIR dd. 22 May 2014 (ESMA/2014/549)).

**In our view, the fact that EIOPA has been granted one additional month for its preparatory work on Level 2 implies the expectation of the EU legislator that the findings by ESMA on MiFID II will be taken into account in the**

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**EIOPA’s final advice on possible implementing measures to the IMD. This expectation is backed by the clear request from the EU Commission to ensure regular consultations with ESMA as regards ESMA’s work on its technical advice in terms of conflict of interest management. Further, the Commission’s mandate specifies that “the EIOPA advice should be in line with the MiFID II Level 2 provisions as much as possible, in so far it is consistent with IMD 1.5” (Cf. Formal Request to EIOPA by the Commission as included in Annex 4 to the Discussion Paper, page 43).**

**Therefore, we request EIOPA not limit its considerations regarding inducements to the MiFID I regime, but to take into regard the results of the discussions on implementation of the MiFID II requirements and to cooperate closely with ESMA in this regard. Such proceeding is necessary in order to fulfill the Commission’s mandate and to effectively respond to the concerns associated with inducement payments as identified in the Discussion Paper.**

Q10.

Q11.

Q12.

Q13.

Q14.

Q15.

Q16.

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Q17.		
Q18.		