

**Comments Template for Joint Consultation Paper concerning amendments to the PRIIPs KID (JC 2018 60)**

**Deadline  
6 December 2018  
23:55 CET**

Name of Company:	Insurance Ireland	
Disclosure of comments:	Please indicate if your comments should be treated as confidential:	Public
<p>Please follow the following instructions for filling in the template:</p> <ul style="list-style-type: none"> <li>⇒ Do <b>not</b> change the numbering in the column "reference"; if you change numbering, your comment cannot be processed by our IT tool</li> <li>⇒ Leave the last column <u>empty</u>.</li> <li>⇒ Please fill in your comment in the relevant row. If you have <u>no comment</u> on a question or a cell, leave the row <u>empty</u>.</li> <li>⇒ Our IT tool does not allow processing of comments which do not refer to the specific numbers below.</li> </ul> <p><b>Please send the completed template, in Word Format, to <a href="mailto:CP-18-005@eiopa.europa.eu">CP-18-005@eiopa.europa.eu</a></b></p> <p><b>Our IT tool does not allow processing of any other formats.</b></p>		
<b>Reference</b>	<b>Comment</b>	
General Comments	<p>Insurance Ireland is the Voice of Insurance in Ireland and represents the Irish general insurance, health insurance, life assurance, reinsurance and captive management sectors. Insurance Ireland represents almost 130 companies providing insurance domestically in Ireland and internationally from Ireland. In response to this consultation Insurance Ireland will consider key areas subject to the ESAs targeted review, we will set out how we believe any changes to the binding Regulatory Technical Standards should take place and we will also respond on some questions set out in the consultation.</p> <p>Insurance Ireland welcomes a well-considered, consumer tested and comprehensive review of the PRIIPs Regulation. We understand this is due to take place in line with Article 33 of the Regulation</p>	

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(the formal review), however it is likely this will be delayed until 31<sup>st</sup> December 2019. We feel such an approach would best address and engage with the shortcomings of the Regulation rather than the 'quick -fix' solution proposed in this paper which would only provide superficial solutions that do not engage with the most fundamental issues of the Regulation, specifically the methodology used in the performance scenarios. Since the implementation of the PRIIPs Regulation on the 1<sup>st</sup> January 2018 a clear consensus has emerged across Member States that the methodology used to calculate the performance scenarios as set out the Regulatory Technical Standards is fundamentally flawed. We believe this is due to the inclusion of past performance data in calculating the performance scenarios. We have set out more detail on this issue in response to question 1 which discusses our recommendation to amend the RTS to replace the performance scenario methodology with a forward-looking model. We feel such fundamental change should only take place under the formal review of the Regulation as it would necessitate thorough consumer testing and impact assessment.

We are concerned that the ESAs have proposed amendments to the level 2 text of the Regulation without conducting any consumer testing for a Regulation which governs the supply of information to consumers. On this basis we feel the proposals put forward in this consultation lack the necessary support of an evidence base to be implemented. Furthermore, given the fact the Regulation has only been in force since January 2018, we think a more considered approach would be supported by observation of a longer period of implementation.

As outlined in the consultation paper, the expiration of the UCITs exemption is identified as a key driver of the proposed targeted amendments. We understand that the European Commission have indicated that the expiration of the exemption will be delayed by 2 years following a meeting of the European Parliament's ECON Committee on the 19<sup>th</sup> of November. On this basis there is now ample time for the European Commission to carry out a comprehensive review on all parts of the PRIIPs Regulation with the support of the ESAs. In this regard we feel the ESAs consultation on targeted amendments to the Delegated Regulation is now unnecessary.

If the ESAs were to proceed with these proposed amendments ultimately the consumer would

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suffer due to increased uncertainty and confusion on information contained in the KID in addition to the lack of consumer testing. The consultation document confirms that changes made on foot of the ESAs consultation on targeted amendments will not prejudice any future changes which may be considered in a more comprehensive review of the PRIIPs Regulation. As the ESAs are consulting on the “*most pressing issues*”, it is therefore likely these issues will be revisited and further revisions to the RTS will be required under the formal review. We think that multiple revisions to the RTS would ultimately damage the key objectives of the Regulation which include transparency, trust and comparative analysis. If changes were implemented on foot on the proposals outlined in this paper this would require firms to revise KIDs in line with new requirements set out in a revised RTS. We think this would cause increased confusion among consumers as insurer would need to replace the original KIDs with the amended version which may contain different narrative explanations or may vary the period calculations are based on, depending on whether the proposed changes are accepted. Depending on the unpredictable legislative process at European level, these changes may not be available until well into 2020. Due to this the insurer may need to be explain these changes to the consumer who received a different KID for the same product a few months earlier. To further complicate matters, insurers would need to make subsequent changes following on from the formal review and information communication in the KID would change again. The likelihood a consumer would then rely on this document which is constantly changing would be dramatically reduced.

Insurance Ireland welcome efforts to address issues with the PRIIPs Regulation and to improve the value of the KID for retail consumers. We recommend that the issues set out in this paper be considered as part of the formal review under Article 33 to allow for thorough impact assessment and proper consumer testing. We feel this approach will provide the best possible outcome to the consumer for reasons outlined in this response.

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Q1	<p>Insurance Ireland recommends that the underlying methodology used to calculate the performance scenarios as prescribed in Annex II of the RTS should be replaced with a standardised forward-looking model. We propose that the level of calculations be proportionate to the product complexity and features. For complex products Monte Carlo simulations could be performed to determine the range of outcomes but for category 2 investment products a formulaic or tabular approach would be developed and applied.</p> <p>As explained above we believe the reliance on past performance in calculating performance scenarios is a fundamental flaw of the Regulation and needs to be considered as part of the formal review which would be based on extensive consumer testing and impact analysis. The RTS should not be amended on foot of feedback set out in this consultation.</p> <p>It is accepted across Member States that past performance is not a reliable indicator of future performance. The reliance on past 5 years performance data has caused the performance scenario information as set out in the KID to appear overly optimistic and may have the potential to mislead retail investors. Given the cyclical experience of investment markets historically, this is not in the best interests of retail consumers. There is a very real risk that the retail investor would incorrectly assume that the performance scenarios are a reliable indicator of expected future performance.</p>	
Q2	<p>Yes, there are major challenges to including past performance information for category 3 products and when launching new products as such data would not be available. For fixed term illiquid products like structured securities, it would be difficult to calculate simulated past performance as data may not be available and there would be a risk of different inputs used by simulated valuation tools resulting in different performance figures for very similar products produced by different manufacturers.</p>	
Q3	<p>As noted in our answers to question 1 above we believe the use of past performance is a fundamental flaw in the Regulation. However if the ESAs were to take such an approach we</p>	

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	recommend that the underlying data should be aligned, meaning that the same period of data for past performance as for the current simulated future performance should be required. In addition to this the recommended holding period would need to be taken into account as another time period for the policyholder. Also, annualised performance has the potential to be confusing to clients investing on a hold to maturity basis, on an illiquid security.	
Q4	We think it would be a major risk to include information on simulated past performance in the KID as it would introduce an element of judgement and potential for bias. As the KID is used for comparative purposes when deciding what product to select there would be an increased risk that information presented may be unduly favourable.	
Q5	Please refer to response to question 4 above. We do not feel simulated past performance should be used.	
Q6	As noted throughout this response Insurance Ireland does not recommend changes to level 2 text ahead of the formal review under Article 33. We do not think it would be appropriate for the ESAs to mandate changes to the narrative explanations in the KID ahead of any changes that may be required under the formal review. The proposals set out by the ESAs on narrative explanations do not adequately address the issues presented by the use of past performance data. On this basis we do not feel that the proposed narrative explanations would be of added value to the consumer and therefore we do not support that such changes should be made.  It may be useful however for the ESAs to address an alternative approach to narratives in additional Q&As and therefore allow companies the flexibility to implement changes if they deem necessary.	
Q7	Please refer to our response to question 1.	
Q8	Please refer to our response to question 1. In addition to this Insurance Ireland's general message	

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	is that changes to the RTS should only take place under the formal review.	
Q9	Please refer to our response to question 11 as these proposed changes have the potential to incur significant costs.	
Q10	No response.	
Q11	<p>In response to the ESAs preliminary assessment of costs and benefits, we refer to a point raised in section 5.1.4. <i>“In general terms, amendments to the PRIIPs Delegated Regulation to be applicable from 1 January 2020, which would require PRIIPs manufactures to review and revise the contents of their KIDs during 2019, would not necessarily results in a significant additional burden”</i>.</p> <p>Specifically, the ESAs estimate that costs will not be that significant due to the requirement of insurers to conduct an annual review on KIDs as required under Article 15 and 16 of the Regulation.</p> <p>Insurance Ireland disagrees with this assertion. The implementation of the PRIIPs Regulation for the 31/12/17 was a significant undertaking in terms of time and expense for industry. The infrastructure and templates set up during this project were designed to be reused for the 31/12/2018 annual review and subsequent annual reviews as required under Articles 15 and 16. If the changes were to be introduced as applicable from the 1/1/2020, the 2019 annual review would have to be based on the proposed changes. Therefore the 31/12/2017 infrastructure would have been used just once for an annual review before the first significant change.</p> <p>The additional costs associated with the proposed changes would not be minimal - If the templates were to undergo a considerable adjustment, the workload would be much greater than a normal annual review. System templates are setup for narratives to change where we expect them to change in line with the current regulation, the proposed changes would introduce changes that systems were not designed to handle. This would be a potentially significant piece of work, the 3 page output may need to be redesigned and tested, additional inputs mentioned would need to be sourced, integrated and tested. Extensive testing would be required on the 3</p>	

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	<p>page output.</p> <p>In addition to this past performance data may require us to setup different data feeds and calculations depending on the definition of the price history i.e. Gross, net, net of certain costs. Depending on the definition, this type of data may only be available from asset managers. Providers would therefore require a lead in time to source this data and potentially additional costs.</p>	
Q12	No response.	
Q13	Please refer to our response to question 11.	