

**Comments Template on  
the Consultation Paper on  
Product Intervention Powers under the Regulation on Key Information  
Documents for Packaged Retail and Insurance-Based Investment Products  
(PRIIPs)**

**Deadline  
27 February 2015  
17:00 CET**

Name of Company:	GEMA (Groupement des entreprises mutuelles d'assurance)	
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>⇒ Please insert a name in the box next to "Name of Company";</li> <li>⇒ <u>Do not change the numbering</u> in the column "reference";</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 paragraph or a cell, keep 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 CP-14-064@eiopa.europa.eu. Our IT tool does not allow processing of any other formats.</b></p> <p>Q1: Do you agree with the criteria and factors proposed?</p> <p>Q2: Are there any additional criteria and/or factors that you would suggest adding?</p> <p>Q3: Is there evidence that certain criteria do not apply under any circumstances to insurance-based investment products? Please elaborate.</p> <p>Q4: What would you estimate as the costs and benefits of the possible changes outlined in this Consultation?</p> <p>The questions listed here are those in the Consultation Paper on Product Intervention Powers under the Regulation on Key Information Documents for PRIIPs.</p>		

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<b>Reference</b>	<b>Comment</b>	
General Comment	<p>GEMA welcomes the opportunity to contribute to the discussion on product intervention powers under the Regulation on key information documents for packaged retail and insurance-based investment products (PRIIPs).</p> <p>We would like to express two general comments :</p> <ul style="list-style-type: none"> <li>- PRIIPs regulation sets strict conditions for EIOPA interventions (see article 16). These conditions are to be read cumulatively and must be met before EIOPA can adopt the specific measures set out in Article 16 §1.</li> <li>- EIOPA should not intervene in the legislative field on the pretext that the legislator asks for specifying criteria before taking action under article 16. In particular EIOPA should neither interfere in the PRIIPs regulation itself nor in the implementation of the Insurance Mediation Directive (IMD2) which is still under discussion nor in fields concerning manufacturers' responsibility only.</li> </ul>	
Q1	<p><i>Do you agree with the criteria and factors proposed?</i></p> <p>EIOPA suggests criteria and factors to be taken into account by EIOPA in determining when there is a significant investor protection concern or a threat to the orderly functioning and integrity of financial markets or to the stability of the whole or part of the financial system of the Union.</p> <ul style="list-style-type: none"> <li>• The first criterion is the degree of complexity of the insurance-based investment product and the relation to the type of investor to whom it is marketed and sold.</li> </ul> <p>We consider that the factor “complexity” does not imply per se the unsuitability of the product to the consumer. Life insurance products often present a degree of complexity in order to reduce consumers' risks. Frequently, customers ask for additional protection to prevent capital loss.</p>	

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In this case, a degree of complexity can protect consumers.  
Moreover, we want to emphasise that the advice given by the distributor, which is mandatory under French law, is always adapted to the needs and demands of the customers especially when selling complex insurance based investment products.  
Therefore we believe that EIOPA should not capture these products under this criterion.

- The third and ninth criteria suggested by EIOPA concern the degree of innovation of a product and the product design. These criteria are both the responsibility of the insurer. We believe it is of the utmost importance not to limit product innovation freedom and we do not think that innovations could represent a threat to the orderly functioning and integrity of financial markets or to the stability of the financial system.  
Moreover, rules concerning the definition of product should be regulated by European laws and not by EIOPA. For example, IMD2 provides for product oversight and governance arrangements. So, we believe that EIOPA shall not intervene in the innovation and the design of a product.

Last but not least, we insist on the fact that, in France, the duty of advice prevents distributors from commercializing products that are not fit for the needs and demands of the customers. In our view, it is a sufficient protection for customers and there is no need for EIOPA to intervene on these bases.

- The fourth and sixth criteria deal with the degree of transparency of the insurance based investment product and the degree of disparity between expected return or benefit and risk of loss.  
In our view, transparency and disparity will be ensured through the key information document required by the PRIIPs regulation. This document provides consumers with understandable and comparable information regarding costs, risks and performance indicators. Therefore, this document supplemented by thorough advice should be sufficient to avoid a detriment to consumers. We believe that EIOPA intervention is unnecessary on the bases of these criteria.

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	<ul style="list-style-type: none"> <li>The tenth criterion, which concerns the selling practices, is in our view anticipating the currently discussed review of the insurance mediation directive (IMD2).</li> </ul>	
Q2		
Q3		
Q4		