

**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:	Association of British Insurers	
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"> ⇒ Please insert a name in the box next to "Name of Company"; ⇒ <u>Do not change the numbering</u> in the column "reference"; ⇒ Leave the last column <u>empty</u>; ⇒ 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>; ⇒ Our IT tool does not allow processing of comments which do not refer to the specific numbers below. <p>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.</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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Reference	Comment	
General Comment	<p>The ABI welcomes EIOPA’s Consultation Paper on Product Intervention Powers under the Regulation of Key Information Documents for Packaged Retail and Insurance-Based Investment Products.</p> <p>Currently in the UK, product intervention rules are made under Section 137D of the Financial Services and Markets Act 2000 (FSMA) (as amended by the Financial Services Act 2012) aiming to tackle issues relating to specific products (or types of products), product features or marketing practices relating to specific products. Temporary product intervention rules also exist and are enforceable without consultation for a limited period of 12 months to enable the national competent authority to investigate further and make permanent provisions. These rules exist alongside other regulatory tools. Therefore, whilst we do support a consistent application and co-ordination of common supervisory provisions, it is for the national competent authorities to carry out the direct supervision over their respective markets. In view of the differences between the national markets and the different expectations of national consumers, we believe that, in all but the most extreme circumstances, the national supervisor model is the right one.</p> <p>Recital 25 of the PRIIPs Regulations states that there must be “serious concerns” and that the intervention requires a public interest and, therefore, a collective interest. Furthermore, this technical advice should serve as a tool for assessment rather than automatic criteria that leads to intervention. As such, EIOPA should only intervene under the PRIIPs Regulation in exceptional cases. We agree with EIOPA that flexibility is required; however, any further regulation should be focused on more effective, proactive and consistent supervision of national supervisors in respect of the enforcement of existing rules.</p>	
Q1 Do you agree with the criteria and factors	The ABI has concerns regarding the following criteria;	

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proposed?

1.16.1: A complex product is not necessarily detrimental to the consumer. Many insurance-based investment products require a level of complexity in order to reduce the investor’s risk and provide them with capital guarantees or cushioning them from the volatility of the market through the ‘smoothing’ offered by a with-profits fund.

1.16.1 (b)The requirement for full transparency of costs. This is covered through the PRIIPs Regulation and is currently being developed at Level 2. This will include all costs and disclosure is to be in a prescribed comparable and transparent manner, therefore, we do not feel it is necessary for EIOPA to be concerned regarding a lack of cost transparency.

1.16.1 (e) With regard to the bundling of products, this is currently being consulted on in the context of the revision of the IMD and the ESAs’ cross-selling consultation paper. The implementation of this Directive and the consultation paper should, therefore, not be pre-empted.

1.16.3 (e) The PRIIPs Regulation does not mention the term “target market” and therefore it should be avoided in the level 2 text. The term “target market is currently being discussed and defined in the development of rules on product governance. The introduction of this term on the basis of the PRIIPs regulation could result in obligations for manufacturers which are not foreseen in the level 1 text.

1.16.4 The degree of transparency will be ensured through the PRIIPs KID and the extensive provisions that are currently being developed at level 2. It is unclear, therefore, how the degree of transparency can be a possible criterion for product intervention given that this should be avoided through the prescribed nature of the KID.

1.16.6 The degree of disparity between expected return or benefit. According to the PRIIPs Regulation retail investors will be informed about the risks and the corresponding returns of a product through the KID. Retail investors will be able to choose a product that suits their

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	<p>requirements. Furthermore, product intervention rules should not be used against products which perform poorly due to market volatility. Consumer detriment should not encompass losses arising from the crystallisation of market risk (such as investment performance) as long as the product is well-designed and appropriately marketed to the identified target market.</p> <p>1.16.8 The calculation of costs and premiums are the responsibility of product manufacturers and not under the general control of the supervisory authorities. This should be made clearer.</p> <p>1.16.9 The degree of Innovation; The ABI agrees with EIOPA that the concept of innovation should not be a stand-alone reason for making use of product intervention powers. Innovation is a driving force for continued development of new products. Deterring innovation will only exacerbate consumer access problems and ultimately reduce choice. With regard to putting provisions in place, Solvency II ensures that risks arising from the sale of a new product are appropriately taken into account to ensure the financial soundness of the insurance undertaking. As such, innovation does not represent a threat to the stability of the financial system.</p>	
Q2	No	
Q3	1.16.3 Refers to “pension savings”. This reference should be deleted as occupational and private pensions that are recognised under national law are outside of the scope of the PRIIPs Regulations at present.	
Q4	The costs will depend on how these product intervention powers are utilised and if, as intended, they are only applied in exceptional circumstances.	