	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 International Life Offices	
Disclosure of comments:	Please indicate if your comments should be treated as confidential:	Public

Please follow the following instructions for filling in the template:

- ⇨ Please insert a name in the box next to "Name of Company";
- ⇨ Do **not** change the numbering in the column "reference";
- ⇨ Leave the last column empty;
- ⇨ Please fill in your comment in the relevant row. If you have no comment on a paragraph or a cell, keep the row empty;
- ⇨ Our IT tool does not allow processing of comments which do not refer to the specific numbers below.

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.

Q1: Do you agree with the criteria and factors proposed?

Q2: Are there any additional criteria and/or factors that you would suggest adding?

Q3: Is there evidence that certain criteria do not apply under any circumstances to insurance-based investment products? Please elaborate.

Q4: What would you estimate as the costs and benefits of the possible changes outlined in this Consultation?

The questions listed here are those in the Consultation Paper on Product Intervention Powers under the Regulation on Key Information Documents for PRIIPs.

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
Reference	**Comment**	
General Comment		
Q1	AILO broadly agrees subject to a few observations: - Wrapper type products are very common especially in the cross border market and as such it is extremely unlikely that the product itself could create a significant investor protection concern. AILO generally considers that the intervention powers of ESMA and EBA at asset level (financial instruments and structured deposits) ought to be sufficient to prevent the marketing of such an asset within a wrapper . The wide choice of asset links enjoyed by policyholders and their advisers may in certain circumstances contain a particular, unsuitable asset for the policyholder. This should be distinguished from the choice of asset class; NCA's and local Regulators must be free to determine asset admissibility for technical reserves purposes, within the permissible classes under the Solvency II Directive. - As indicated in the paper it is important for the future of the Single Market that powers are not used which might have the unintended consequence of stifling innovation. - There is strong concern to ensure powers are not used by certain Regulators as a means to impose product pre-approval contrary to Article 182 Solvency II Directive. - There must be recognition of Home State permitted asset rules. NCAs and EIOPA should make information public to ensure that they have abided by all the requirements of Article 17 of the PRIIPs Regulation (in particular 17.2(c), (d) and (e). We have strong concerns that NCAs may well decide to take steps to impose a blanket prohibition without taking account of the different degrees of sophistication of policyholders and their advisers. Such actions would have a discriminatory effect on the activities and innovation of cross border insurers, and damage the future development of the Single Market.	

	- In terms of the experience of the "market" we would have concern if that were only considered to be domestic markets, rather than the EU Single Market of 28 Member States. Again such actions would create the potential to restrict innovation and impose a high level of subjectivity and disproportionate application. - Certain of the criteria in respect of costs and charges would seem to be superfluous given the disclosure requirements for the PRIIPs KID. In the event that the costs and charges are not transparently disclosed, this ought to be a matter for the administrative sanctions given under the PRIIPS Regulation. The nature and scale of any risks ought to also be adequately explained, however we do agree that appropriate criteria might include a product with a disproportionate risk to return ratio. Other criteria would appear to be superfluous given the improved appropriateness and suitability regime under proposed IDD2 which operates at the level of the sale, rather than at the whole-of-market level. Insurance clients may be of varying wealth, experience and risk appetites and accordingly, a given the sector does not have an imbedded retail vs professional distinction, unlike MiFID, great care ought to be taken before making assumptions on whether a 'target market' (eg private individuals) is appropriate. In particular: 1. In relation to paragraph 1.16.1(a) we believe that the type of underlying asset is a matter for the relevant supervisory authority (EBA, ESMA) and instead might refer to "the type and transparency of the insurance based investment product". 2. We believe that paragraph 1.16.1(b) ought to be deleted. Where the costs and charges of the PRIIP are not transparently disclosed, this ought to be dealt with	

through administrative sanctions for a breach of regulation 8.3(f) of the PRIIPS Regulation. In terms of the costs of an asset which might be linked to the PRIIP, article 6.3 will require the manufacturer to inform the policyholder as to where information can be found on the investment option, and will address the concern of 'multiple layers' of costs.

3. We believe that paragraph 1.16.1(c) ought to be retained, but only to address the situation where the KID disclosures which are required to be made under regulations 8.3(d)(iii) and (iv) cannot adequately convey the true nature of the performance calculation.
4. We agree with the text of paragraph 1.16.1 (d) on the basis that notwithstanding the KID disclosures required by articles 8.3(d)(i) and (ii) (risk indicator and maximum loss of capital), EIOPA ought to take action for a product where the risks are disproportionate to the costs and rewards. This paragraph might instead be combined into paragraph 1.16.6.
5. In paragraph 1.16.2(b) we would instead refer to the "numbers of policyholders or market participants", to use the correct insurance industry terminology.
6. We would delete paragraphs 1.16.2(c) and (i), as the relative share of the product in an investor portfolio, and the average amount invested, cannot be enforced at whole of market level; rather it is a matter for an insurance distributor under the appropriateness and suitability review to be introduced under IDD2.
7. The preamble to paragraph 1.16.3 should refer to the 'type of policyholder' rather than 'the type of investors' to use the correct insurance industry terminology.
8. The MIFID categorisation of clients at paragraph 1.16.3(a) ought to be deleted. In paragraph 1.16.3(e) we would submit that the relevant criteria is not whether the PRIIP is being sold outside the target market , but rather whether the appropriateness and suitability assessment has adequately matched the demands and needs of the policyholder with the most suitable product, under IDD2. Instead, might this be

reworded to reflect that there is a high probability that the product would not be suitable or appropriate for any policyholder within the intended or likely target market.

9. We were unclear as to the meaning of paragraphs 1.16.3(b), (c), (d) and (f) but insofar as the intention was to prevent a distributor from marketing a PRIIP as having appropriate features for particular types of policyholders, or eligibility for an insurance guarantee scheme this might be dealt with through civil liability measures where a misrepresentation has been made. These criteria ought not to prevent insurers offering PRIIPS with a minimum premium level, or making true statements about the tax deductibility of premia if the product is an approved pension product etc. By comparison, we agreed with paragraphs 1.16.4(c), (e) and (f).
10. We would submit that paragraphs 1.16.4(a), (b) and (d) be deleted for the reasons described above.
11. Paragraph 1.16.7 is not appropriate to insurance products which are generally whole of life or endowment products with cancellation charges for early surrender and the costs of early exit must already be adequately explained under article 8.3(g) of the PRIIPS Regulation.
12. Paragraph 1.16.8(a) ought to be deleted for the reasons described above (already dealt with by the disclosure measures required under Regulation 8.3(f)). We would agree that the relevant criteria would include that the charges do not reflect the service provided, but we would add that additional criteria of the charges not reflecting the guarantees given, and/or risks lowered by the product, in combination.
13. We would not agree with paragraph 1.16.9(e) (the opacity of the underlying) for the reason that again, the type of underlying asset, and the disclosures in the corresponding KID is a matter for the relevant supervisory authority (EBA, ESMA). We would submit that new products or selling practices be reviewed on their merits and not based on previous experience of the market, as this could stifle innovation

	(paragraph 1.16.9(f)). 14. While we do not disagree with 1.16.11 it would be sincerely hoped that the Solvency II framework would not bring about a situation where an undertaking is able to continue operating under such conditions.	
Q2	No	
Q3	No	
Q4	Given the Corporate Governance requirements for insurers under Solvency II, then , in principle, AILO does not anticipate there to be any real changes. However that is subject to our comments at question 1 and NCAs and EIOPA ought to not using this as an excuse to impose further General Good requirements on providers. The Single Market benefits must take precedence over domestic idiosyncrasies.	