

IRSG

# INSURANCE AND REINSURANCE STAKEHOLDER GROUP

Advice on retail investor protection

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## **IRSG response to the EIOPA Survey on Consultation Paper regarding Advice on certain aspects relating to retail investor protection**

*Do you have any general comments on the Consultation Paper?*

A summary of views provided by IRSG members can be found in Annex II to the consultation paper and provides more background to some of the responses provided here.

The IRSG acknowledges that the short timeline for stakeholder responses is due to the tight deadline set by the European Commission to provide the final advice by April. However, the IRSG believes that this timeframe must be an exception and not set a precedent for future consultation. There have been several incredibly short deadlines on consultations recently and limits the possibility for the IRSG to provide full feedback.

One particular issue that the IRSG would like to raise is the importance of financial education to consumers. In this regard some IRSG members would like to draw particular attention to the role of social media today with the rise of 'neo-brokers', which makes it more important and urgent to have financial education integrated into mandatory schooling curricula. The group notes that the role of the advisor remains key - provided it is bias-free - to explaining, reassuring and presenting a varied range of financial market diversification vehicles with different investment horizons.

Some members noted that this consultation that presents itself as proposing small changes, but that in fact includes proposals that could potentially drastically undermine the level playing field agreed upon after years of discussion in the IDD and have a much more important impact in terms of costs and burden for SMEs in the insurance market than for large integrated distribution systems.

These members called for more study and impact assessment is necessary to assess the "combined" impact that some of the proposals will have.

These members find that the "the issues" on the "intermediation" side of the market are covered in the IDD and now have to find to their way into the market. Focus should now be on POG rules and issues higher up in the chain in the product manufacturing area. Sustainability and adapting the disclosures to the digital market should now be the priority.

Some members noted that that regulation needs to follow evolutions in a quickly changing world but besides the issues related to the development of AI and the sustainability aspects, we do not identify issues which did not already exist at the time the IDD was adopted. Changing regulation is burdensome, costly for SMEs and keeps intermediaries away from their clients who need service. Constantly changing new rules (and IDD or IBIP's related rules are not the only ones the intermediaries have to comply with) reduces the time available for advising, serving or accompanying clients. For a sector with mainly small and medium sized operators this is extra burdensome.

**Addressing and enhancing investor engagement with disclosures and Drawing out the benefits of digital disclosures**

*Q1. What do you consider currently to be the most burdensome duplicative requirements between the different legislative frameworks? Do you consider there to be any duplicative disclosures which EIOPA have identified above between different legislative regimes to be not particularly burdensome for insurance undertakings or insurance intermediaries to comply?*

Duplications, regardless of the greater or lesser burden for the industry, are compliance driven and contribute to complexity and information overload to the recipient of the information i.e. the consumer and should, in principle, be avoided.

The IRSG appreciates EIOPA's analysis and supports EIOPA's commitment to address information overload. Removing duplicative requirements is important to simplify insurers' and intermediaries' compliance efforts and improve consumers' journey.

However, it must be noted that in practice, many duplicated disclosures stem from national requirements. Some members believe that national requirements are often better tailored to the specificities of the national markets, it is difficult to replace them with an EU disclosure document at this point in time. Currently, EU disclosure documents like the PRIIP KID work as a supplement to the more specific national requirements.

The duplication of certain disclosures should be studied on the basis of a dynamic and non-linear process rather than from a static "rule" to "rule" comparison basis.

It should be noted here that even if duplication of requirements exists in EU texts, because some of these texts were adopted a long time ago (DMFSD), some of these duplications have been progressively "fixed" at national level in implementing texts. This should be further assessed by EIOPA and the Commission.

Removing duplicative disclosures and promoting digital approaches represent a pragmatic first step towards an overall simplification. When considering further actions to improve consumer disclosures, further analysis and impact assessment will be needed, including an extensive consumer testing on a wide range of products, markets and consumers. Consumer testing needs to be done as part of the process of drafting the Level 1 rules (as well as delegated acts) so that the choices at that level also reflect behavioural insights. On the contrary, it cannot be the responsibility of companies to carry out consumer testing: it would be too burdensome and would come too late in the process, as companies would not have the possibility to fix certain elements that are prescribed by law.

Stakeholder consultation is also key to integrate real-world experience into the legislative process, provided that full details of the proposals are provided, and sufficient time to respond is allowed.

The IRSG also encourages EIOPA to promote cross-referencing through hyperlinks to existing documents and a layered approach to put consumers in control of the level of details they wish to receive. These are easy and efficient techniques that consumers are used to use in any online research.

*Q2. EIOPA can see some specific benefits in disapplying a number of disclosure requirements in the Solvency II Directive and the Distance Marketing of Consumer Financial Services Directive and rationalising any remaining requirements in the IDD. Do you agree with this approach?*

The approach proposed by EIOPA aims to relieve consumers and industry from duplicative disclosures requirements and is therefore broadly supported. However, as mentioned in Q1 and Q3, existing national requirements, national specificities and necessary individual information require a meticulous analysis of which changes really constitute an improvement for consumers.

Removing duplicative disclosures and promoting digital approaches are necessary first steps to improve consumers' understanding. Further interventions would need careful consideration and extensive testing, but this should not discourage EIOPA or the Commission to take action.

The IRSG believes that changes should only be made where necessary.

*Q3. Notwithstanding the proposed approach set out in Q2, do you consider that there is an element of personalization under the provisions in Solvency II Directive that would justify delivery of personalized information separately and in addition to the generalized information in the PRIIPs KID?*

The IRSG sees benefits in the approach set out in Q2 and, as EIOPA writes, the relevant Solvency II Directive provisions tend to have a generic nature.

The IRSG does not believe that – as proposed by EIOPA in point 35, p 14 – it is advisable to create another, personalized pre-contractual document alongside the existing (generic) KID.

*Q4. Do you agree that to address the current gap on periodic disclosures, it makes sense to require the disclosure of an “annual statement” which could include information on paid premiums, past performance, current value of the savings, as well as adjusted projections?*

Annual information can be useful as consumers tend to forget what they bought and it may also help them analyse the product they bought and if it still fit for purpose especially if it was intended to pay for a future capital outlay or a pension.

However, the majority of IRSG members believe there is no need for additional templates as SII and IDD already foresee such periodic information. Indeed, the IDD already includes requirements for periodic communications for IBIPs, which have been already implemented at national level and there are already requirements for annual statements at national level (often deriving also from the requirements in article 185 para. 5 SII and tailored to the national specificities), developed taking into account products and markets specificities. The standardised PRIIPs KID approach has already shown its limitations.

It is important to assess national situation/current issues first.

In case a further annual statement would be proposed, consumer testing and further study would be necessary to define the exact contents of such a statement to avoid duplication.

Any development of a European annual statement should be subject to a “confusion audit”, representative in terms of numbers and geography.

In the interest of legal certainty, transparency and comparability its content should be limited to the most vital information.

It is to be noted that with regard to PEPP and pension products, also specific annual statements are also already foreseen. Pension products have very specific objectives and a special national fiscal and regulatory treatment, so they have tailored information requirements.

Any “annual statement” should be issued by the insurer or product manufacturer and could be handed over to client either by the product manufacturer or the intermediary.

If new annual statements are introduced, they should only be introduced for new business. The existing annual statements should be continued for in-force-business - otherwise consumers would receive very confusing signals if all figures suddenly changed due to a switch in methodology

*Q5. Do you agree with the proposed list of “most vital” product and intermediary information? If not, what elements do you identify as being “most vital”, that is essential information that is most critical for consumers to read?*

Regarding the elements representing the “most vital” information that should be communicated by the intermediary to the customer prior to the conclusion of the contract (IBIPs), except for the very last piece of information in the above list, it is important to mention in this context that the IDD (in its Article 18 and 19 –) already requires that the above and crucial elements of information are provided to the customer before the conclusion of the contract.

Regarding product information for IBIPs, key would be the existence or lack of biometric risk covers, financial guarantees and other capital protection mechanisms at the top of the PRIIPs Key Information Document (KID) and/or in its first layer.

This is a starting point for consumers to assess if a product meets their needs, understand what they are paying for and take a well-informed decision.

While the IRSG generally supports further exploring EIOPA’s approach, subject to thorough consumer testing, the IRSG does not believe that the amount of the remuneration received in relation to the contract can be considered as the most vital information that should be communicated to a retail investor buying an IBIPs, in particular if no level playing field is really ensured on this aspect with direct writer/ staff of insurers selling direct. It would in that case lead to an unacceptable distortion of competition.

For consumers it is usually more relevant what the costs calculated for the contract are. And these costs calculated in the contract is already part of the PRIIP disclosure.

Relevant and useful transparency of all costs is key in this respect.

*Q6. Do you currently see specific issues with misleading advertisements and marketing material in relation to the sale of insurance-based investment products (IBIPs), which would merit specific regulatory treatment and if so, which aspects?*

IDD and PRIIPs rules on marketing communications already ensure that consumers are provided with fair information and that marketing communications are clearly identifiable as such. The IDD also foresees

further safeguards to ensure that the product meets the clients' needs, for example through the POG process.

Some members have expressed no opposition to Level 3 guidance that could provide some clarity where needed, in particular regarding digital distribution models.

Other members argued that a solution would be to require cooling off periods before signing a contract, where the consumer would be advised to check and compare other product offers in this period.

Other members believe that based on IDD and PRIIPs requirements, key information is provided in good time before the conclusion of the contract, with derogations in case of distance communication. These rules have worked well in practice. It should be recognized that consumers expect efficient services and to be able to conclude insurance contracts when they need them — for example immediately — without unnecessary obstacles, delays or restrictions.

Some members noted that social media platforms can give non-financial players (who are not bound by professional standards, lack the required professional qualification and appear to act in a private capacity) a large stage to influence the investment behaviour of retail investors. Such players often appear to act in a merely private capacity while in fact they are driven by strong economic considerations. Online platforms can give non-financial players a large stage to influence the investment behaviour of retail investors. In general, these members would recommend to subject online platforms who are effectively distributing IBIPs to the IDD regime.

#### Assessing the risks and opportunities presented by new digital tools and channels

*Q7. Do you agree on the current level of development of the market for online platforms distributing IBIPs? If not, please could you provide examples of where you see evidence of online platforms selling IBIPs at present and how you see this impacting the customer journey and if possible, any quantitative data you can provide on this distribution channel.*

The IRSG agrees that this is currently not a major distribution method for IBIPs, but in the future it will probably become mainstream, as digital distribution is growing and will become increasingly significant.

In this regard, it is relevant to highlight the Importance of human advice /Hybrid advice (human and digital) for the distribution of products in general and for IBIPs in particular.

Furthermore, in recent expert debates on the occasion of the EIOPA webinars regarding digitalization have shown that human governance is necessary for the moment, that AI may not be stable, that the transparency of data sources is key, that algorithms are often not transparent in terms of their objective and that there is need to control and test the stability of the “self-learning” AI.

However, looking to the future work should start to focus on the effectiveness and control of digital advice provision and not only human advice. This is best achieved through technologically neutral regulation that applies the same high standards to all varieties of advice (online, offline, hybrid) but is future proof and can be applied meaningfully to emerging new technologies.

Additionally, it is also important to stress the importance to oversee the information offered by some Online platforms, where it is difficult find all of the product features, including risk and associated total costs.

*Q8. Do you see the potential for the growth of open architecture models for the sale of IBIPs in the future and if so, in relation to which types of products?*

There are advantages to move towards a data-driven financial sector in terms of risk monitoring and improving the consumer experience as well as mitigating fraud. However, there are many risks that will be difficult to mitigate in the short term. Scope and objectives of the use of open architecture need to be subject to a full impact assessment, before any regulation is introduced.

Moreover, insurance is not banking and a copy/paste approach should be avoided, preserving the specificities of the sector and considering the business model of insurers, in particular the data that is required.

Also, it is important to reiterate that IDD rules apply to online brokers, with monitored data protection.

*Q9. Do you share EIOPA's assessment of the types of risks that could arise in the context of the growth of more diverse distribution channels for IBIPs? Are there any risks which you see arising, but which EIOPA has not identified in this paper?*

The IRSG believes that the assessment was quite comprehensive and have not identified any additional risks not covered by the paper.

However, some members have expressed that is key is to have a technology neutral framework (no technique or approach may be favoured over the other by regulators). Too much detail with regards to "how" would possibly create legal uncertainty or unlevel playing fields. Different disclosure requirements for digital versus non-digital channels have to be avoided. These are not two separate worlds. Insurance professionals combine digital and non-digital channels (digital) and the regulatory framework has to introduce the digital format on the same level as the paper format. A pdf and email can be as efficient in terms of information efficiency as more sophisticated digital tools.

Other members noted the typical risks connected with powerful intermediaries (such as customer churning, aggressive marketing strategies, misleading consumers with headline prices and lack of information on the fact that only a limited number of providers are typically on comparison portals) would further increase, turning them into gatekeepers, with negative consequences for the market, competition, business and end users.

#### Tackling damaging conflicts of interest in the sales process

*Q10. Do you agree with EIOPA's analysis of differences between IDD and MiFID II? Are there any other differences not mentioned which you consider to be relevant?*

The IRSG agrees that EIOPA's analysis of covers the key differences between IDD and MiFID II. Other important differences including training requirements under the IDD could be better highlighted.

Some IRSG members believe that the report does not cover the reasons for the differences in enough detail. Insurance and other financial product distribution systems are different, as are the interest of the customers for these different products. This should include taking into account the needs and expectations of national consumers. The MiFID II framework covers a broader diversified market of products and operators. Insurance is not an investment and the IDD and MiFID II therefore necessarily have different rules.

Other IRSG members believe that the differences between IDD and MiFID II are without clear justification in many cases. This is supported by analysis conducted on the topic<sup>1</sup>. Differences over independent advice, inducements and disclosure of commissions need to be dealt with to ensure a sufficient and consistent level of consumer protection.

Some members share EIOPA's view that the rules for MiFID and IDD are materially generally rather similar (quality enhancement vs. no detrimental impact) and the practical impact of the different wording translates into limited differences in terms of supervisory outcomes between the two, as observed by NCAs.

*Q11. Do you have any views on EIOPA's analysis of the structure of different distribution models for the sale of IBIPs in the EU?*

The IRSG believes that the EIOPA analysis has captured the key differences in EU IBIP distribution models. The commission-based distribution models are the most common. They allow customers to access as much pre-contractual advice as they need free of charge, as this is effectively pre-financed by existing insured customers. This increases the affordability of advice, which is particularly important in markets where low levels of financial literacy exist. The IRSG notes that the existence of a variety of different distribution models in different national markets is not necessarily negative and does not de facto require a regulatory response.

*Q12. Has EIOPA captured, in your view, all relevant policy options? Do you agree with the different pros and cons listed for these options and the potential impacts indicated for these options? Are you in favour of any particular options or combination of options? Are there any other policy options and pros and cons to be considered in your view?*

The IRSG generally finds the list of policy options to be comprehensive. The group believes that these options would require proper impact assessment to take them further and ensure that a full list of pros and cons can be elaborated. This should include impact analysis of policy options at national level in

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<sup>1</sup> Veerle Colaert, 'MiFID II in relation to other investor protection regulation: Picking up the crumbs of a piecemeal approach', 2017, [http://www.academia.edu/32119298/MiFID\\_II\\_in\\_relation\\_to\\_other\\_investor\\_protection\\_regulation\\_Picking\\_up\\_the\\_crumbs\\_of\\_a\\_piecemeal\\_approach](http://www.academia.edu/32119298/MiFID_II_in_relation_to_other_investor_protection_regulation_Picking_up_the_crumbs_of_a_piecemeal_approach)

different EU Member States, to assess possible differing impact of the policy options where different national realities exist.

Some IRSG members called for the option of making no regulatory changes to be included and given equal assessment of its pros and cons of. This is particularly important as EIOPA has itself acknowledged that more time will be needed to assess the application of the current IDD rules. These members believe that the policy option of a blanket inducement ban is not viable for the insurance market, which would go beyond the existing MiFID II rules. A focus more generally should be on ensuring the transparency of costs that have an impact on returns. This is difficult to achieve given issues with the existing rules on pre-contractual information documents.

Other IRSG members believe that EIOPA should at least advise the European Commission to select the policy options that align IDD and MiFID II requirements. This should in particular ensure the harmonisation on conflicts of interests provisions. The points of sale are often the same on retail side for IDD and MiFID II products, but distributors are complying with different conduct of business rules.

#### Promoting an affordable and efficient sales process

*Q13. Where do you see the most significant overlaps lie between the demands and need test and suitability assessment and what can be done to address these overlaps?*

The demands and needs test and suitability assessment are important to ensure consumer protection. There could be room to improve both processes including to clarify the different functions they have at different stages of the sales process. Some members believe that this should, however, be considered as a potential change to the Level 1 IDD text and not as Level 3 guidance. Some markets where problems arise seem to have been able to resolve them at national level, reducing the need for EU-level guidance. The four years of experience with the IDD is also not necessarily sufficient to draw clear conclusions on the functioning of the demands and needs test and suitability assessment so far.

*Q14. Do you see scope for streamlining the suitability assessment and in what way, could digitalisation be harnessed to make advice on IBIPs more affordable?*

The IRSG believes there is scope for some digital pathways to enhance the consumer experience and open up financial markets to more consumers. EIOPA's focus on streamlining advice is a step in the right direction. The IRSG would like to point out that this would be a major overhaul of the current market and would require careful impact assessment. It may ultimately not be possible to devise and sufficiently test any new proposals before the RIS is due to be published at the end of this year.

*Q15. Do you see any specific risks for consumers in streamlining the advice process further?*

As mentioned above, this is a major market innovation and there are inherent risks in introducing entirely new concepts. A full impact assessment is the only way to fully establish and address potential risks. The

streamlining of advice should not impact the level of protection offered to consumers, no matter what the distribution channel.

Significant inconsistencies between the SFDR (EU) 2019/2088 (Art 8 and Art 9) and the IDD Delegated Act for insurance-based investment products (EU) 2017/2359 (Art 2, new para 4) with regard to the customer's sustainability preferences represent a material risk for consumers, distributors and providers. The highly complex, threefold notion of "sustainability preferences" under IDD risks confusing all stakeholders involved. Therefore, sustainability preferences under IDD should be fully aligned with the financial product categories defined under Art 8 and Art 9 SFDR.

*Q16. What is your view on possible demand-side solutions to facilitate the provision of affordable advice on the sale of IBIPs and support wealth management, such as financial guidance and what benefits could this bring?*

The IRSG believes that ensuring access to affordable advice for all consumers is essential. Financial guidance should not mean that advice becomes unaffordable for all but the most well off consumers.

Equivalent provisions on the promotion of financial education and necessary information for consumers under the MCD could be considered. Financial education should ultimately be integrated into compulsory education curricula, but this is not an EU-level competence.

Some IRSG members believe that it can then help to build consumer confidence and capacity in accessing financial markets, especially where advice is streamlined. This is linked to the discussion on restricting commission-based advice, as commissions are a crucial factor in ensuring advice is available to all.

Having said that, some IRSG members also noted that such solutions shift the concept of advice from the supply to the demand side and care needs to be taken that such actors do not develop their own conflicts of interest or political agendas. Furthermore the examples provided (e.g. Norway Finansportalen) relate to single actors in the market and hence present the risks, including competition, typically linked to the digital platforms.

Other IRSG members believe that financial education cannot, however, replace effective consumer protection rules that ensure the market is safe and suitable for consumers. Just as consumers for non-financial services have consumer advice call centres or bureaus, consumers for financial services should also be provided with free advice when they are purchasing financial products.

#### Assessing the impact of complexity in the retail investment product market

*Q17. Do you agree with EIOPA's interpretation of complexity and cost efficiency in light of the changing market environment?*

A difference should be made between complexity at the front-end disclosure and the back-end engineering of an insurance product. While the back-end (e.g. risk-mitigation techniques) is typically difficult to understand for the average consumer, front-end disclosures are essential and must not be too

complex for consumers to understand. Although it is a topic not addressed specifically in the Commission's Call for Advice, more can clearly be done to enhance the level of financial education of consumers.

Due to extremely low interest rates, highly volatile financial markets, soaring regulatory requirements and increasing longevity, reaching the financial targets of customers while generating sustainable long-term growth is becoming increasingly challenging. This required the adapting of products' architecture, in order to manage policyholders' exposure to risks, while meeting consumers' expectations in terms of higher returns.

Some IRSG members believe that in this light, focusing the attention on the structure of the product to define its level of complexity is not the right approach. If the product's architecture brings additional protection elements – for example in terms of biometric risk covers and capital protection – this does not increase the risk for consumers. On the contrary, it helps consumers mitigate and manage risks. What is essential is to ensure that consumers understand if the product offers or not biometric risk covers, financial guarantees, other capital protection mechanisms or insurance benefits.

These members believe that overall, the IDD and POG requirements already ensure high levels of consumer protection. What can be improved is the quality and quantity of the information contained in the PRIIPs KID. The KID must prominently display at the top and/or in the first layer whether financial guarantees, biometric risk covers and other capital protection mechanisms are offered or not. Sufficient space should be allowed to explain such features. This can be easily achieved through a re-organisation of the sections, and simplifying other contents that are redundant.

Other IRSG members believe that the IDD and POG requirements have not yet been enough to ensure a sufficiently high level of consumer protection. There is an issue here over the use of the concepts of complexity and risk, which should not be mixed. There is already a definition in MiFID that most IBIPs would fit into. A further mitigating factor would be to ensure a default basic product offer that is safe and suitable for all consumers. The EIOPA legal mandate to promote simplicity should be eventually implemented

*Q18. Do you agree with EIOPA's assessment of the types of products and/or products features which could be considered simpler?*

The IRSG believes that further assessment is needed here. The horizontal approach of the PRIIPs Regulation has revealed its limits, as has chapter VI of the IDD that was taken from criteria for the securities market. Some potential insurance-specific criteria for the assignment of non-complexity for IBIPs could be guarantees, agreed benefits and fixed terms and conditions.

A "complexity scale" based on several dimensions, adding different rules in the pre-sales, sales and post-sale phase, does not simplify the assessment and it is challenging to implement. IBIPs features such as the long-term investment horizon, insurance covers, financial guarantees or other benefits at maturity should not be assessed as complexity factors by EIOPA, as they clearly provide more protection to consumers.

Besides, I agree with EIOPA that new measures should not result in promoting products exposing consumers to higher financial risks only because they may have a less complex structure.

*Q19. How would you, as an external stakeholder, define simpler and cost-efficient products? Could you please provide concrete examples of products that you consider simpler and cost-efficient?*

A key part of this discussion is to ensure that consumers can understand the product explanations and descriptions that they are provided with, no matter what their individual circumstances are. This means that consumer disclosures and advice are essential.

The basic principles in insurance, in particular the principles of solidarity and mathematical methods, enable cost structures that would not be available on an individual standalone basis.

Certain low cost funds such as “clean share” classes and plain vanilla index ETFs could be offered and promoted as part of the fund choices in the unit-linked IBIPs as a low cost, simple option.

There is also a need to take into account the move to unit-linked products that can be more complex and expensive away from the simpler guaranteed products of the past.

The key objective is that customers receive products that are suitable to their specific preferences and needs. IBIPs features such as the long-term investment horizon, insurance cover, financial guarantees or other benefits at maturity should not in any way be assessed negatively by EIOPA, as they clearly provide more protection to consumers.

*Q20. Do you consider, as an external stakeholder, that other measures could be more effective in ensuring cost efficiency? Examples of such measures could include amending the wording of the POG Delegated Regulation and state more clearly that, in the product testing, manufacturers should also assess whether costs may be too high and hence not to fit for any target market*

Some members of the IRSG believe that product design and testing under the POG rules, professional advice, distributors continuous training, suitability test, appropriate pre-contractual disclosures and product monitoring already ensure a high level of consumer protection through the whole product life cycle, so there is no need to introduce further limitations to the product design and distribution. EIOPA and national supervisory authorities already have appropriate powers to monitor the market and intervene when necessary.

Other members of the IRSG believe that amending the wording of the POG Delegated Regulation and state more clearly that manufacturers should also assess whether costs may be too high and hence not to fit for any target market would be a positive step forward.

*Q21. Do you agree with the advantages and disadvantages of the different options proposed? Are there additional aspects which should be highlighted?*

Some IRSG members agreed with the options proposed, whereas others did not agree with the two sub-options described in the EIOPA advice nor with the third option, where complexity is linked to distribution or conduct requirements.

Other members would favour the alternative option of reaching a solid definition of complexity for IBIPs in level 1 regulation since, as confirmed by EIOPA, it is difficult to simply apply complexity-related criteria originating from the securities markets. The lack of some features (e.g. options), perceived as complex when measured against the current securities driven criteria, may actually be severely detrimental to the customer during volatile and changing economic environments, given that the average customer may have several life changes in the lifespan of the product.

Some IRSG members believe that on product design and testing as per POG rules, professional advice, distributors continuous training, suitability test, appropriate pre-contractual disclosures and product monitoring already ensure a high level of consumer protection through the whole product life cycle, so there is no need to introduce further limitations to the product design and distribution. Any cost cap or de facto profit control within POG would be incompatible with prudential regulation (Solvency II, Art 21): cost management is primarily the responsibility of the product provider and the supervisor only insofar as the tariff must not jeopardize the financial situation of the insurer. As to limitations or bans on the payment of commissions for highly complex or highly risky products, it is precisely for these products that consumers need comprehensive, unlimited-time advice, potentially provided by several persons and financed on a solidarity basis. A competitive and thriving capital market achieved cannot be achieved introducing benchmarks on costs or other measures that limit consumers' choice. Furthermore, IDD Level 2 clearly states that the POG rules should not be understood as an interference with the manufacturers' freedom to set premiums or as price control in any form (Commission Delegated Regulation (EU) 2017/2358, Recital 8).

These members believe that what is needed is to improve the structure of the PRIIPs KID, clearly explaining at the top and/or in the first layer of the document if the product offers or not financial guarantees, biometric risk covers and other capital protection mechanisms. Sufficient space should be allowed to explain such features. This can be easily achieved through a re-organisation of the sections, and simplifying other contents that are redundant.

As indicated in the EIOPA advice, complexity is different from risk. Some IRSG members point out that the sub options in option 3 in 5.5 are very complex "regulatory" pseudo - solutions trying to "regulate" indirectly the offer/ demand of certain – complex- products by indirect measures and moving the burden (and responsibility) of managing complexity to intermediaries / distributors, depriving potentially consumers from complex (but thanks to or due to the complexity) low risk products.

These members believe that the EIOPA advice gives examples of overly complex products but does not give an indication of their importance in the market and in which (national) markets they are on offer.