The Society of Actuaries in Ireland ("Society") welcomes EIOPA's "Discussion Paper on Key Information Documents for Packaged Retail and Insurance-based Investment Products (PRIIPs)".

The Society was instrumental in developing the Irish product projection and cost disclosure regime in Ireland in 2000. However it recognises that developments in the sophistication in products and investment instruments mean that the regime needs to be updated. Accordingly, in 2013, the Society set out its own principles for communicating investment risk.[1]

Many of the Society's views are reflected in the EIOPA Discussion Paper. In addition, the Society's Communicating Investment Risk Working Party Report has proposed methods of providing better communication of risk to customers. [2]

We are pleased to submit our responses to the questions posed in the Discussion Paper.

1: Do you have any views on how draft RTS for the KID might be integrated in practice with disclosures pursuant to other provisions?

We believe that where there are existing national disclosure regulations in place, the PRIIPS legislation should override these to avoid duplication of work and confusion. In addition, to the greatest extent possible, the RTS for the new KID should be consistent with the existing KIID regulations and disclosures in place for UCITS products.

2: Do you agree with the description of the consumer´s perspective on risk expressed in the Key Questions?

Broadly the consumer's perspective on risk is well captured in the description. There should also be coverage for certain product types of discrete events that may lead to gains or losses as the range of returns may be volatile or contain regular ongoing income or coupon payments. In addition commentary on any asymmetry (e.g. where there is leverage) in the return profile should be highlighted if the potential upside returns are structurally different to the downside returns.

3: Do you agree that market, credit and liquidity risk are the main risks for PRIIPs? Do you agree with the definitions the ESA's propose for these?

We believe that concentration risk should also be mentioned (although this could be a subrisk of "Market Risk"). In addition, the risk of changes in taxation or legislation should also be defined and mentioned.

1

https://web.actuaries.ie/sites/default/files/story/2013/05/130517%20Proposed%20Principles%20Communicating%20Investment%20Risk.pdf

2 https://web.actuaries.ie/sites/default/files/event/2011/03/Communicating%20Investment%20Risk%201.pdf

4: Do you have a view on the most appropriate measure(s) or combinations of these to be used to evaluate each type of risk? Do you consider some risk measures not appropriate in the PRIIPs context? Why? Please take into account access to data.

For market risk, we believe the most appropriate measure should be that used by the existing UCITS measures (e.g. historical volatility with various adaptations).

For credit and liquidity risk, we do not believe that it should be "measured". We do believe that credit and liquidity risk should be highlighted in qualitative form in the KID according to the qualitative points set out in Tables 5 and 6. However we believe quantification is not appropriate as:

For credit risk

- Market measures such as CDSs are not available for all manufacturers. There are other potential measures but no universal agreement on a single measure. Some judgement would have to be used.
- The risk of default of the manufacturer could change (quite quickly) over the (potentially long) life time of the product.
- A monetary estimate of loss is meaningless where there is one counterparty (the loss is either zero or a large portion of the investment)
- The credit risk of the underlying instrument may be separate from the credit risk of the manufacturer and it could be difficult to combine the two.

For liquidity risk

- There are a range of possible measures but no universal agreement on a single measure.
- Some judgement has to be used.
- Market measures are not available for all types of asset.
- Liquidity risk could change (quite quickly) over the (potentially long) lifetime of the product.

5: How do you think market, credit and liquidity risk could be integrated? If you believe they cannot be integrated, what should be shown on each in the KID?

We do not believe that these should be integrated. Rather we believe that, to highlight the risks, EIOPA should develop standardised statements along the lines of the following:

Credit

"Please note that should [the manufacturer] not meet its obligations, you would be exposed to the loss of some or all of your investments".

Liquidity

"The underlying assets of this product may be subject to liquidity risks in that your investment may not be realisable in the short term and/or may be realised at value significantly lower than the latest quoted price".

6: Do you think that performance scenarios should include or be based on probabilistic modelling, or instead show possible outcomes relevant for the payouts feasible under the PRIIP but without any implications as to their likelihood?

We would support the use of stochastic analysis to determine a generic range of outcomes and benefits. This is particularly the case for more complex and/or structured products. A regulatory body could develop a standard stochastic model and tables to be used for combinations of funds or more complex funds. For clarity it is not intended that the models produced would be complex and mathematically pure. The models need to be relatively simple and be sufficient to demonstrate the uncertainty of returns.

We propose that the level of stochastic analysis be proportional to the product complexity and features. For example, for a mainstream equity or bond fund, a standard table of outcomes could be developed based on log normal returns. Therefore, the table would consist of various percentiles of returns over 1 year, 2 years, etc. Projections could be carried out by simply reading from these tables. The projection graphs provided to the policyholder could be based on a certain percentiles of outcomes.
A central illustration should not be shown as it is a low information item that risks being interpreted as a high information item – i.e. consumers may give it more credibility than is warranted. Instead, a graphical illustration should show, say, the 10^{th} (or 25^{th})and 90^{th} (or 75^{th}) percentile outcomes over the illustration period.

Illustrative maturity amounts and (where applicable) pensions would be rounded to very few significant figures, to avoid the impression of spurious accuracy.

7: How would you ensure a consistent approach across both firms and products were a modelling approach to be adopted?

The rules could stipulate a number of alternative modelling approaches.

As suggested in our answer to question 6 a regulatory body could develop a standard stochastic model and tables.

8: What time frames do you think would be appropriate for the performance scenarios?

- All timeframes could be reflected through a graphical approach.
- The performance at maturity should be shown where relevant.
- For long term products it may be appropriate to show annual performance up to say 5 years and beyond this point at 5 or 10 yearly intervals.

9: Do you think that performance scenarios should include absolute figures, monetary amounts or percentages or a combination of these?

Performance figures should be based on graphs but monetary figures may be helpful in supplementing the graphical information.

10: Are you aware of any practical issues that might arise with performance scenarios presented net of costs?

No.

11: Do you have any preferences in terms of the number or range of scenarios presented? Please explain.

As mentioned above, a graph showing the outcome based on a high and low percentile over a number of years would be the most useful .

12: Do you have any views, positive or negative, on the different examples for presentation of a summary risk indicator? Please outline advantages and disadvantages, and provide any other examples that you are aware of that you think would be useful.

The indicator should reflect the link between risk and possible returns (i.e. that typically lower risk will yield lower returns and vice versa). Therefore we would favour the Dutch, Belgian and UCITS KIID summary risks. These are also relatively easy to understand.

Such a summary indicator may, however, fail to capture certain non-linear product return profiles (for example in the case of certain derivative or structured products) where small changes in a reference value could have a disproportionate effect on capital returned. In these cases a specific risk warning may be required and/or warning that the product is 'complex' as envisaged in the PRIIPS regulation.

In our view the summary risk indicator should focus on the market risk component with counterparty risk and liquidity risk covered by way of narrative explanation of the nature of the risk.

The ESA's may be able to develop some standard descriptions for these risks for different types of asset classes and product types to assist consistency across PRIIP manufacturers.

13: Do you have any views, positive or negative, on the different examples for presentation of performance scenarios? Please outline advantages and disadvantages, and provide any other examples that you are aware of that you think would be useful.

We have a strong preference for the V shaped graphical representation set out by the ABI on the top of page 43 of the paper. This was the type of measure supported by the Society of Actuaries in Ireland. However we would suggest a few amendments as follows:

- We would suggest avoiding the usage of the "expected return" line as this may create an expectation that this is the most likely return.
- We would show an upper line ("optimistic" outcome) and lower line ("pessimistic" outcome).
- We would show monetary returns at the end of the period as per the graph. However these should be "real" amounts (after inflation).
- The "optimistic" and "pessimistic" lines should be based on high percentile and low percentile projections based on (an offline) stochastic analysis for four asset classes (e.g. equity, government bond, corporate bond, cash) after allowing for inflation.
- The projected rate of return for each of the percentiles would be published by a European regulatory body and used by all manufacturers depending on the underlying asset mix of the product.

This measure has the benefit of showing the projected return as well as providing an assessment of risk.

In relation to the definition of “risk”, we would caution against the use of “high risk” without some qualification. The objectives of the investor need to be taken into account. Historically cash has been “high risk” if it has been held for a long period of time!

14: Do you have any views on possible combinations of a summary risk indicator with performance scenarios?

We would prefer to see the measure at the top of page 43 (ABI).

15: Do you agree with the description of the consumer´s perspective on costs expressed in the Key Questions?

Yes. However we would propose adding two additional questions as follows:

- “Would I be able to move to a different charging structure easily in the future?
- “What is the cost of my insurance cover?”

16: What are the main challenges you see in achieving a level-playing field in cost disclosures, and how would you address them?

We believe that cross subsidies between disclosable and non disclosable costs are the main challenges to determine a level playing field. We believe that the concept of “arm’s length” and the requirement of the manufacturer to be able to demonstrate this should be embedded in the regulations.

In relation to “look through”, there is a current inconsistency whereby some of the costs of direct investments (e.g. holding equities etc.) are not disclosed whereas indirect investments (e.g. ETFs) are disclosed. Many providers use ETFs to gain efficient access to markets where it would be significantly more costly to purchases shares on an individual basis (e.g. emerging markets, property). There should be a level playing field here with either:

- Total costs of direct investments disclosed or
- ETFs used for efficient investment purposes are not disclosed.

We would favour the former. We understand that there is ongoing work in some territories (e.g. the UK) to try to determine the total costs of direct investment. However until this work is concluded, there remains an inconsistency of disclosure here in that the costs of the ETFs are proposed to be disclosed whereas those involved in the direct investment are not. This distorts the views of investors who could end up paying more for direct investment without realising it. It also creates incentives for poor cost management. Until the total costs of direct investment are disclosed, we would suggest that the charge disclosed for ETFs is:

=Maximum of (0, TER of ETF used less (Average TER of the three ETFs with the lowest TERs available in that market))

All of the above TERs should be based on an “arm’s length” negotiated cost.

17: Do you agree with the outline of the main features of the cost structures for insurance based investment products, structured products, CfDs and derivatives? Please describe any other costs or charges that should be included.

We agree.

18: Do you have any views on how implicit costs, for instance costs embedded within the price of a structured product, might be best estimated or calculated?

These could be estimated by requiring the structured product provider to provide an immediate encashment or unwind value of the product on the assumption that it was encashed the day after it was sold to the client. The difference between the price paid by the client and the encashment value would allow for the costs embedded in the structured product. This would be based on an "arms length" cost and if possible demonstrated by actual transactions.

19: Do you agree with the costs and charges to be disclosed to investors as listed in table 12? If not please state your reasons, including describing any other cost or charges that should be included and the method of calculation.

In general, we agree with the list of costs and charges listed in Table 12 with the proviso that all costs disclosed should be those negotiated on an "arm's length" basis.

In addition, the annual management charge should be consistent with the "Total Expense Ratio" disclosure required under UCITS.

20: Do you agree that a RIY or similar calculation method might be used for preparing 'total aggregate cost' figures?

Yes. The Society of Actuaries in Ireland has used this method for the purposes of disclosure of charges under life assurance product disclosure in Ireland since 2001. We believe that it is a simple yet effective measure.

21: Are you aware of any other calculation methodologies for costs that should be considered by the ESAs?

No.

22: Do you agree that implicit or explicit growth rates should be assumed for the purpose of estimating 'total aggregate costs'? How might these be set, and should these assumptions be adjusted so as to be consistent with information included on the performance scenarios?

We believe an implicit growth rate of risk free real rate of return should be used. This would broadly equate to the historic "real" rate of return on cash based investments and represent a simple and consistent base line across all products. For products with non linear charges (e.g. performance fees) we believe that a second higher rate of return is used which illustrates the level of charges allowing for performance fees.

23: How do you think implicit portfolio transaction costs should be taken into account, bearing in mind also possible methods for assessing implicit costs for structured products?

This area is currently being explored by various European regulators in the context of UCITS and other investment products. We believe that the approach for PRIIPS should be consistent with that of other products (when this investigation is concluded).

24: Do you have any views on possible assumptions that should be made, and how these might be calibrated or set?

Our proposed growth rate is set out above.

We believe that a reduction in yield figure should be included (but should exclude insurance costs). It should be calculated as a percentage figure and should be calculated at the recommended holding period and at quinquennial intervals.

The amount invested should reflect the expected average amount to be received by the manufacturer. A separate KID based on the minimum amount permitted to be invested could also be appropriate.

25: What do you think are the key challenges in standardising the format of cost information across different PRIIPs, e.g. funds, derivatives, life insurance contracts?

The key challenge is to come up with a single measure which captures all the costs over various periods of time. We believe the best way to address this is to show a reduction in yield and sample monetary costs (in real terms).

26: Do you have a marked preference or any objection for any of the presentational examples? If so, why? Please provide any alternative examples which you believe could be useful.

We have a preference for an adaptation of Option 8 or Option 10. We would prefer to see a growth rate equal to the projected risk free rate of return used and insurance costs excluded from the "return after costs".

We would object to Option 1 as it is difficult to determine what level of costs is "high" as this depends on the benefits provided, standard of service and market.

27: In terms of a possible breakdown of costs, are you aware of cost structures for which a split between entry or exit costs, ongoing costs, and costs only paid in specific situations or under specific conditions, would not work?

No.

28: How do you think contingent costs should be addressed when showing total aggregated costs?

See answer to Q22

29: How do you think should cumulative costs be shown?

These should be shown as per Option 8 or 10.

30: Do you have any views on the identity information that should be included?

Name of PRIIP manufacturer/distributor including contact details for further information – website, postal address and phone number. These are needed for consumers who do not have web access. If ISIN references do not exist for the product, this reference should not be included.

31: Do you consider that the criteria set out in recital 18 are sufficiently clear, or would you see some merit in ESAs clarifying them further?

Further clarification from ESAs on some aspects of recital 18 should be considered. This could be based on existing frameworks and guidance, for example, Article 50 of the UCITS directive, to establish underlying assets that are not commonly invested in by retail investors.

32: Do you agree that principles on how a PRIIP might be assigned a 'type' will be needed, and do you have views on how these might be set?

Yes. We agree that principles are needed.

33: Are you aware of classifications other than by legal type that you think should be considered?

We believe that the principle of substance over form should apply. Therefore classifications based on underlying investments could be considered e.g. investment only, derivative based, guaranteed etc. PRIIPs with an insurance element should be considered a separate type for classification purposes.

34: Do you agree that general principles and as necessary prescribed statements might be needed for completing this section of the KID?

Yes, general principles and/or prescribed statements should be considered.

35: Are you aware of other measures that might be taken to improve the quality of the section from the perspective of the retail investor?

We suggest preparing "sample" KIDs so PRIIPs manufacturers understand the aim of the RTS and Article 8.

36: Do you have views on the information PRIIPs manufacturers should provide on consumer types?

The ESAs should consider developing an appropriate investor risk analysis questionnaire that could form the basis of risk classification for PRIIPs products and also generating risk profiles/descriptions that the consumer can relate to. Such risk profiling tools and questionnaires are already widely in use although vary in definition and output from one provider to the next.

37: What is the key information that needs to be given to the retail investor on insurance benefits, and how should this be presented?

Key information:

- Amount and type of benefit (e.g. lump sum, annual payment)
- Term of insurance
- Conditions for payment
- Restrictions
- Outline of circumstances where additional information may be required

As the KID is a generic pre-sale document, only limited information on the insurance benefits available may be able to be included. For ease of comparison, a generic table format to cover the required information should be developed. The interaction of insurance benefits with investment outcomes should also be covered e.g. where variable insurance is an option. Reference to other documents could also be made.

38: Are you aware of PRIIPs where the term may not be readily described, or where there are other issues?

Term will typically be fixed or open-ended and so generally will be readily described. We would suggest providing guidance or clarification where an open-ended PRIIP may imply a minimum recommended or appropriate term.

39: Are you aware of specific challenges arising for specific PRIIPs in completing this section?

No

40: Are you aware of specific challenges arising for specific PRIIPs in completing this section?

We believe that the aim here should be the avoidance of duplication of information that is included in other KID sections.

41: Are you aware of specific challenges arising for specific PRIIPs in completing this section?

No further issues.

42: Do you agree that this section should link to a webpage of the manufacturer?

Yes, and to an alternative source of the appropriate information for customers that do not have web access. A list of the relevant documents to be considered by the consumer should also be included.

43: Do you agree with the assessment of when PRIIPs might be concerned by article 6(3)?

Yes.

44: In your market, taking into account the list of criteria in the above section, what products would be concerned by article 6(2a)? What market share do these represent?

In the domestic Irish market the majority of unit-linked insurance products, both single and regular premium, offer a wide choice of fund links and further allow switching between those funds during the course of the contract.

Ireland also has a large cross-border insurance sector which offers mainly 'Personalised Portfolio Bonds' (PPBs).

45: Please provide sufficient information about these products to illustrate why they would be concerned?

The single premium and regular premium unit-linked insurance products with typically offer multiple fund choices. In many cases these are funds of the insurer but often they may offer options to link to external third party funds. These products also generally allow switching funds during the life of the product. These funds will have varying investment objective and cost structures and therefore a single KID cannot adequately disclose all information required.

PPBs are unit-linked life assurance products where the policyholder is free to choose from an almost unlimited range of investments to link to their policy and are often referred to as 'wrappers'. Typically these products may allow investment into direct assets (equities / Bonds) which are outside of the PRIIPs regulations and/or funds (UCITS and non-UCITS). The funds in these products may be internal funds of the insurance company, structured products offered by investment banks and in some cases alternative funds and private equity funds.

PPB products often also allow the choice of assets within the product to be managed by a third party asset manager on either a discretionary or advisory basis under an asset management agreement.

In these cases the investment profile may be tailored to the client and therefore not known in advance in order to provide a KID. As noted in the consultation in certain cases these may in reality offer a limited number of strategies but even in such cases if the arrangement is advisory then the client may not follow the strategy.

46: Do you have views on how you think the KID should be adapted for article 6(3) products, taking into account the options outlined by the ESAs?

In our view the KIDs for such products should be structured as 'Product KIDs' as suggested in the consultation paper. On the assumption that all the funds to which product can be linked would then have a KID for that option the customer can obtain an overall view of the product plus chosen investment options by reading the documents together i.e. the 'fund' KID would be read together with the 'product' KID.

In regard to disclosure of charges the product KIDs would provide the costs for the product only but then clearly state (perhaps highlighted) that the total cost for the Product can only be obtained by further adding the charges / costs for any underlying PRIIP to which the product may be linked.

We do not favour making an assumption on the underlying investment option as this assumption is unlikely to properly cover the wide range of assets that may be included in these products and would therefore mislead customers as to the true costs.

Therefore, under this suggestion, the costs would be the combination of the 'product' KID costs plus the costs of the 'fund' from the 'fund' KID. In this way if more than one fund is linked to the product the costs can be determined as a weighted average of the fund costs plus the product costs.

Similarly the risks would be described in general terms related to the range of investment options that the PRIIP can access plus a clear statement that the overall risk will be based on the fund options chosen. As above if multiple funds are chosen then the risk measure should be obtainable as a weighted average of the risk indicators of the funds selected.

Where the product allows direct investment in equities or bonds the product KID can disclose any direct charges related to those investments such as transaction charges. However given that the level of such charges will ultimately depend on the number of transactions which is determined by the policyholder this can only be disclosed in terms of rates of charge or by reference to other documents.

Again as discussed in the consultation paper where such a product contains a discretionary asset management service it would be possible, assuming a limited number of investment profiles are available, to treat each such option as a PRIIP and create a fund KID for each. For advisory asset management, which is common for the high net worth customer, it is not possible to provide a KID allowing for the policyholder choice although a KID based on the chosen risk profile may still be possible.
One area of difficulty is the projection scenarios of what the returns might be. Given that the investments are not known for these types of PRIIPS it is not possible to determine appropriate rates of return or costs for scenario calculations. We believe the most appropriate option here is to prepare a single projection at the risk free real rate of return to illustrate the effect of the wrapper charges in isolation. This should be accompanied by a clear statement that this is not intended to represent what the return from the product may be. As before this can be added to the information from KIDs of any funds chosen to gain an overall view of the likely return from the combination of wrapper plus underlying assets / funds.

47: How do you consider that the product manufacturer should meet the requirements to describe and detail the investment options available?

In the case of unit-linked products with a limited range of investment funds also manufactured by unit-linked product provider the provider can produce both the product KID and the individual fund KIDs and can make these available to the customer.

In the case where the product manufacturer is offering funds that they did not manufacture (external PRIIPS), such as in the case of PPBs, the manufacturer of the underlying PRIIP should produce the KID.

For the 'wrapper' or product KID there should be a narrative description of the types of assets the PRIIP may contain and detail on any limits that may apply. It should then further explain that KIDs for underlying PRIIPS manufactured by that company are available from the company, for external PRIIPS are available from that manufacturer and that in the case of direct investment in equities / bonds etc. that no KID will be provided. This should also explain that the KID should be provided by their adviser (which may be the PRIIP manufacturer but not always).

One area we believe should be clarified is around the area of the PRIIPS regulation relating to 'remanufacturing' of PRIIPS. In our view it should be made clear that the 'wrapper' provider is not considered to have remanufactured a PRIIP simply by virtue of the investment into the PRIIP via the wrapper.

For many of these wrapper products the customer has the right to select the investments of the product themselves (possibly subject to limits set in the product). It is important that in these cases that if the customer is selecting external PRIIPS to the product provider (and the policyholder is not being advised by the provider) that the customer should be responsible for obtaining the KID or pre-contractual information they require. The product provider should be able to rely on a declaration from the customer that they have obtained such information prior to selecting the external PRIIP.

48: Are you aware of further challenges that should be taken into account?

As discussed above the case of PPB product with advisory asset management or where the policyholder is selecting the assets of the policy fund make it impossible to create a KID reflecting such a product as the investment profile will be determined ultimately by the policyholder. In such cases we believe the product KID with appropriate explanation and a 'complex product' declaration is appropriate.

49: Do you agree with the measures outlined for periodic review, revision and republication of the KID where 'material' changes are found?

Yes we broadly agree.

50: Where a PRIIP is being sold or traded on a secondary market, do you foresee particular challenges in keeping the KID up-to-date?

We believe that the manufacture is responsible for keeping the KID up to date. However the manufacturer should not be responsible for what happens on the secondary market (if one exists). A separate KID should be prepared by those who are selling the product on the secondary market.

51: Where a PRIIP is offering a wide range of investment options, do you foresee any particular challenges in keeping the KID up-to-date?

No. This is not the basis that the PRIIP manufacturer would update the PRIIP on its website rather than having to issue it to each customer each time it changed.

52: Are there circumstances where an active communication model should be provided?

This should be based on materiality. It would seem reasonable that particularly significant changes (e.g. changes in investment mandate) should be notified to existing and potential investors through an active approach (e.g. writing to them).

53: Do you agree that Recital 83 of the MiFID II might be used as a model for technical standards on the timing of the delivery of the KID?

Yes

54: Are you aware of any other criteria or details that might be taken into account?

The role of the distributor should also be considered.

55: Do you think that the ESAs should aim to develop one or more overall templates for the KID?

We would strongly support this suggestion. However these would need to be seen as examples rather than additional requirements.

56: Do you think the KID should be adjusted to reflect the impact of regular payment options (on costs, performance, risk) where these are offered? If so, how?

If this is an integral part of the product (rather than an option of the client), the KID should show the impact of regular payment options. However if this is an option of the client, the KID should show the product without these options. Should the client wish to take one of these options, a separate disclosure should be required.

57: Are there other cost or benefit drivers that you are aware of that have not been mentioned? Please consider both one-off and ongoing costs.

No.

58: Do you have any evidence on the specific costs or benefits that might be linked to the options already explored earlier in this Discussion Paper? Please provide specific information or references broken down by the specific options on which you wish to comment.

None.

59: Are you aware of situations in which costs might be disproportionate for particular options, for instance borne by a specific group of manufacturers to a far greater degree in terms relative to the turnover of that group of manufacturers, compared to other manufacturers?

No. For the purposes of maintaining a level playing field we believe that the proposals should apply to all manufacturers.