European Banking Authority
European Insurance and Occupational Pensions Authority
European Markets Authority

17 February 2015

This is the response to your Discussion Paper on Key Information Documents for Packaged Retail and Insurance-based Investment Products (PRIIPs) from the FCA Smaller Business Practitioner Panel.

The UK's Financial Conduct Authority is required by the Financial Services Act 2012 to set up and take advice from the Smaller Business Practitioner Panel (alongside the other statutory Panels). Senior level representatives of eligible practitioners are appointed by the FCA to serve as members on the Panel, providing the important perspective from smaller regulated firms into the FCA, which may otherwise not have a strong voice in policy making.

**General comments**

The Panel is in favour of clearer disclosure which consumers can use to make appropriate choices, and supports the general objectives of the PRIIPs proposals. However, our key point is that the product disclosure provided in PRIIPs must be seen in the context of the broader consumer experience, and therefore care must be taken to align the product disclosure proposals with other initiatives such as those in MiFID II and IMD which relate to the cost of advice.

As it stands, advice charges which are attached to the product, such as commissions, would be revealed to the customer in the KID, whereas advice charges such as fixed fees which are not attached to a specific product, would not. It is important that the PRIIPs and MiFID rules are consistent and require all charges to be clearly explained to the customer, otherwise there is a danger of gaps emerging in the information supplied.

**Answers to specific questions**

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

The Panel has proposed, and is in discussions with the FCA about, a standard information sheet for advisers on the services they provide. This would be given to customers at an early stage in the relationship. Such information would not be able to give accurate product charges at the time of providing the document as it would be too early in the advice process to discern what products would be suitable. However, it should give consumers a ‘good clue’ as to the likely ongoing costs, based on typical standard portfolios used by the firm. The document would also disclose the adviser’s service charges, so overall, in conjunction with the PRIIPs KID, the consumer would be able to work out an approximate initial and ongoing cost. However, the KID on its own will not do this.

In terms of other provisions, in the UK requirements already exist to provide illustrations for investment bonds and personal pensions that disclose product charges, adviser charges and reduction in yield (RIY) figures. This will work with the PRIIPs rules where the product facilitates the adviser fee. Where it does not, it will be more challenging to show this – firms will have to prepare their own information to provide to customers, if they are to receive the full picture.

*Q 2 Do you agree with the description of the consumer’s perspective on risk expressed in the Key Questions?*

In relation to the question ‘Can I get my money back at any moment?’, this needs to be linked with potential minimum holding periods which are shorter for lower risk assets and longer for higher risk assets due to volatility. This is covered elsewhere in the KID but is important in this section. We have concerns that consumer may think it is appropriate to invest in a high risk investment for the same time as a low risk investment. As an example, one Panel member has encountered consumers who seek to invest in a building society three year fixed bond, and also invest for three years in a UK Index Tracker Fund, without understanding the difference in risk profile.

*Q 3 Do you agree that market, credit and liquidity risk are the main risks for PRIIPs?*

Although categorising risk into three types is a simplification, we believe it is acceptable to help communicate to consumers.

*Q 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.*

One of our Panel members, a financial adviser, has used in practice an example in their client questionnaire, similar to the Netherlands ‘dashboard’ graphic, to demonstrate increasing volatility. We are happy to provide further information if required.

*Q 15 Do you agree with the description of the consumer’s perspective on costs expressed in the Key Questions?*

As outlined in the general comments above, there is potential for consumers to miss important information on costs if the MiFID and PRIIPs requirements are not coordinated in such a way that both advice costs included in a product, and advice costs which are independent of a product, are disclosed to the customer. There is also a mismatch in that MIFID II includes stocks, shares and bonds within its definition of a product, creating a mismatch with PRIIPs.

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

The main challenge is consistency with MiFID. PRIIPs sold by Article 3 firms must have the same cost disclosure as the same PRIIPs sold by MiFID authorised firms. Also, firms which passport in cross-border from other EU territories or third country firms should be subject to identical requirements.

*Q 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.*

As described elsewhere, the totality of advice costs must be made clear to customers, whether via the KID or through other channels.

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

We would prefer that a Total Expense Ratio (or Ongoing Charges) method is used. We have concerns about use of RIY. As an example, in the 1990s pensions illustrations were used where front loaded contracts would use up all premiums to pay for commissions in the first two years, yet RIY to normal retirement date showed 1% to 1.5% per annum charge. If RIY is adopted, it must be on the basis that excessive product charges in the early years of a contract are clearly visible, not just in numbers but an illustrative picture.

*Q 31 Do you consider that the criteria set out in recital 18 are sufficiently clear, or would you see some merit in ESA's clarifying them further?*

We are happy with the text as it stands.

*Q 34 Do you agree that general principles and as necessary prescribed statements might be needed for completing this section of the KID? [Objectives and means of achieving them]*

The Smaller Business Practitioner Panel supports the requirement that the description of the product must include reference to specific environmental or social objectives targeted. We would go further and suggest that for further clarity, where funds do not cover this at all, a clear statement is made to that effect.

For the wording of the references to environment and social objectives we would suggest it is not overly prescriptive, but that as a minimum it should cover the following areas:

- Whether the fund has exclusion criteria
- Thematic investing (otherwise known as positive screening)
- Integration of environmental, social and governance (ESG) issues in the fund management. This can affect "mainstream" funds not clearly branded and marketed as social / environmental funds.

If a fund only covers one, or two of the above three areas, we suggest the text in the KID only describes what they cover, and does not state what they do not cover. For instance, if a fund does not use exclusion, the KID should not say “the fund does not have exclusion criteria”.

*Q 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?*

Presently, KIIDs for OEICs and unit trusts are updated regularly, so regular updates should be workable.

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