Financial Services Consumer Panel
AN INDEPENDENT VOICE FOR CONSUMERS OF FINANCIAL SERVICES

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European Banking Authority
European Insurance & Occupational Pensions Authority
European Securities & Markets Authority

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Dear Sir, Madam,

Joint Consultation Paper on the PRIIPs Key Information Documents

This is the response of the Financial Services Consumer Panel to the ESA's Joint Consultation Paper on the PRIIPs Key Information Documents. The Consumer Panel is grateful for this opportunity to provide detailed feedback on the content of the KID from the consumer perspective.

The Consumer Panel is an independent statutory body, which represents the consumer interest by advising and challenging the UK's Financial Conduct Authority (FCA) on how its policy and rules affect consumers. The Panel represents the interests of all groups of financial services consumers.

The emphasis of the Panel's work is on activities that are regulated by the FCA, although it may also look at the impact on consumers of activities that are not regulated but are related to the FCA's general duties (including the work of the European institutions).

PRIIPs Key Information Document

The Panel takes a close interest in the pre-sale transparency of retail investment products, and supports the ESA's efforts to empower consumers to make informed investment decisions taking into account the trade-offs between costs, risks and potential returns.

The content, timing and delivery of the Key Information Document (KID) has to be ambitious to reflect the complexities of retail fund structures, the asymmetries of information between firms and investors, and the conflicts of interest in the asset management industry, which results in a weak principal-agent relationship.

With this in mind, there are three aspects of the KID under the PRIIPs Regulation on which the Panel would like to comment in particular:

- Performance scenarios
- Standardised risk narratives
- Cost disclosure

Performance scenarios

The Panel is concerned that the chosen approach to performance scenarios, which present investors with the potential returns on their investment, leaves far too much flexibility to manufacturers to choose overly optimistic scenarios.

Requirements such as "sufficiently pessimistic" assumptions for the unfavourable performance scenario will either need to be subject to detailed guidelines, potentially creating safe harbours, or be left to the individual interpretation of each manufacturer, reducing comparability between different investment products and likely leading to the use of overly optimistic performance scenarios to make their products more attractive to investors. It is also important that the performance scenarios reflect the impact of charges for an early exit prior to an investment product's maturity date.

Accordingly, we would strongly urge the ESAs to revise its advice to the European Commission to provide for a more prescriptive approach in the selection of performance scenarios.

Standardised narratives

The draft Delegated Regulation contains a number of standardised narratives that must be used in the KID (some are applicable only if certain conditions are met).

The Panel is concerned that these narratives as drafted in the consultation paper do not consistently use language that is likely to be readily understood by retail investors. Accordingly, the Panel has made a number of recommendations for drafting changes to make the narratives more accessible in response to question 28.

Cost disclosure

The Panel strongly supports the requirement under the PRIIPs Regulation that all costs and charges must be disclosed. This will surface costs that are often hidden from investors, such as transaction costs, which are defrayed against the value of the fund. To make this disclosure as relevant as possible for consumers, costs and reduction in yield should be displayed as monetary figures rather than percentages.

The methodology proposed for the calculation of transaction costs is comprehensive and should not leave room for manufacturers to shelter or hide costs. Manufacturers should not be permitted any leeway to exclude certain costs from this disclosure requirement. The PRIIPs Regulation presents a significant step forward in achieving cost transparency for these products, and should enable retail investors, their advisers and other intermediaries, to make better judgements about the value for money offered by different investment products.

Yours sincerely,

Sue Lewis
Chair
Financial Services Consumer Panel

Consultation questions

Question 1

Would you see merit in the ESAs clarifying further the criteria set out in Recital 18 mentioned above by way of guidelines?

The Panel would support ESA guidelines on the application of the comprehension alert for complex investment products, to ensure consistent application of the criteria across the EU.

Question 2

(i) Would you agree with the assumptions used for the proposed default amounts? Are you of the opinion that these prescribed amounts should be amended? If yes, how and why?

(ii) Would you favour an approach in which the prescribed standardised amount is the default option, unless the PRIIP has a known required investment amount and price which can be used instead?

The Panel would support an approach where the KID is tailored as much as possible to the product it describes. This means that the KID should use the required investment amount and price where these are known so that the calculations reflect the risk, reward and cost of the product as accurately as possible.

Question 5

Are you of the view that the existence of a compensation or guarantee scheme should be taken into account in the credit risk assessment of a PRIIP? And if you agree, how would you propose to do so?

No. The existence of a compensation or guarantee scheme has no bearing on the creditworthiness of the manufacturer, in line with the definition of 'credit risk' in paragraph 53 of annex II, and so should not be part of any assessment of that risk.

Compensation schemes should not be seen as lowering the risks associated with an investment. To incorporate them into the risk calculation methodology would lower the apparent credit risk associated with a retail investment product, and therefore the summary risk indicator as a whole, which could mislead investors.

However, the Panel does believe the existence (or not) of a compensation scheme is of material interest to consumers. The KID should make very clear through a standardised narrative a) whether a compensation scheme is applicable if the firm cannot pay out; b) which compensation scheme applies, including contact details; and c) the maximum amount of compensation covered by the scheme. This should be clarified in article 7(2) of the draft Delegated Regulation to ensure the information provided to the prospective investor on this crucial issue is comprehensive.

Question 6

Would you favour PRIIP manufacturers having the option to voluntarily increase the disclosed SRI?

No. The KID is meant to facilitate comparability, and this option would make comparisons more difficult as products with similar risks may not carry the same risk rating, skewing consumer perceptions.

Question 12

Do you think the risk indicator should take into account currency risk when there is a difference between the currency of the PRIIP and the national currency of the investor targeted by the PRIIP manufacturer, even though this risk is not intrinsic to the PRIIP itself, but relates to the typical situation of the targeted investor?

The risk related to currency exchange rates should be included as a narrative below the risk scale, to make the investor aware of the potential risks even though they are not related to the investment itself. The Panel supports the proposed element 'C' of the narrative below the summary risk indicator.

Question 14

Do you agree to use the performance fee, as prescribed in the cost section, as a basis for the calculations in the performance section (i.e. calculate the return of the benchmark for the moderate scenario in such a way that the return generates the performance fee as prescribed in the cost section)?

No, the Panel does not agree.

Question 15

Given the number of tables displayed in the KID and the to a degree mixed consumer testing results on whether presentation of performance scenarios as a table or a graph would be most effective, do you think a presentation of the performance scenarios in the form of a graph should be preferred, or both a table and a graph?

The Panel supports presentation of the performance scenario using both a table and a graph, as consumers digest this kind of information in different ways and consumer testing does not indicate a clear case in favour of one presentation over the other. Using both would enable consumers to see the information in the way they find easiest to understand.

Whichever format is chosen, we would emphasise that any costs related to an early exit from the product (i.e. before the investment reaches its maturity date, or the end of the recommended holding period) should be clearly incorporated into this section of the KID.

Question 21

Given evidence as to the difficulties consumers may have using percentage figures, would you prefer an alternative presentation of the second table, solely using monetary values instead? As with the first table, please also explain what difficulties you think might arise from calculating monetary values, and whether this should be on an annualized basis, and if so, how?

The Panel supports using monetary values to display costs, as these are more likely to be relevant to, and understood by, retail investors.

Question 22

Given the number of tables shown in the KID, do you think a more graphic presentation of the breakout table should be preferred?

The Panel supports use of the graphic presentation, but this should also include under one-off costs the costs of an early exit, i.e. before the maturity date or end of the recommended holding period. In addition, the definitions in the break-out table provide a useful indication to the prospective investor of what types of costs are covered.

The Panel would also like to underline the crucial importance of making the disclosure of costs through the KID as comprehensive as possible: anything other than full disclosure will enable manufacturers or distributors to hide costs, and make comparability of value for money between different products impossible. In view of this, we support the comprehensive overview of costs provided by the ESAs in the annex VI of the draft Delegated Regulation, and we would urge that no costs or charges are removed from this list.

Question 23

The example presented above includes a possible way of showing the variability of performance fees, by showing the level for all three performance scenarios in the KID,

highlighting the 'moderate' scenario, which would be used for the calculation of the total costs. Do you believe that this additional information should be included in the KID?

The Panel believes that inclusion of this information is likely to confuse consumers, as the performance fees and the overall performance of the investment are directly linked. As a result, performance fees in the 'unfavourable' scenario would be lowest, but to the investor lower costs may appear to be more desirable. To make the information more easily accessible, the performance fees should be calculated based on the 'moderate' scenario.

Question 24

To reduce the volume of information, should the first and the second table of Annex VII be combined in one table? Should this be supplemented with a breakdown of costs as suggested in the graphic above?

The Panel has no preference on this. While we are aware of the constraints on the total length of the KID, a combination may impede readability. As noted in our response to question 22, we also support the inclusion of the graphic representation of the costs using monetary values.

Question 26

Regarding the first table of the cost section presented in Annex VII, would you favour a detailed presentation of the different types of costs, as suggested in the Annex, including a split between one-off, recurring and incidental costs? Alternatively, would you favour a shorter presentation of costs showing only the total costs and the RIY?

The Panel supports a breakdown of the costs in monetary values and by type, as a single total cost figure could not incorporate both the exit fee when exiting on maturity of the product, or at the end of the recommended holding period, and an early exit fee (which may be substantial and therefore have a significant impact on the final return for the investor).

Question 27

Regarding the second table of the cost section presented in Annex VII, would you favour a presentation of the different types of costs showing RIY figures, as suggested in the Annex, or would you favour a presentation of costs under which each type of costs line would be expressed differently, and not as a RIY figure -expressed as a percentage of the initial invested amount, NAV, etc.?

The Panel supports the use of the RIY as an indicator of the potential impact of the costs on the return for the investor, but given low levels of understanding of RIY among consumers this figure should be explained in accessible language through a standardised narrative. It should be called something consumers will readily understand, we would recommend, "Impact of charges". The RIY should also be displayed as a monetary figure to make it relevant to the investor.

Question 28

Do you have any views on the identified benefits and costs associated with each policy option?

Policy issue 7: Choice of performance scenarios

The Panel is concerned that the 'flexible' approach to performance scenarios, which present investors with the potential returns on their investment, leaves far too much flexibility to manufacturers to choose overly optimistic scenarios.

The lack of focus on historical product data, even where this is available, means that the performance scenarios will be entirely hypothetical with potentially very little reference to the historical performance of the fund.

More importantly, the wording of Annex IV of the Delegated Regulation, on the requirements for the calculation of the performance scenarios, particularly in paragraphs 8 to 10, is nebulous to the point where it could be impossible to enforce.

Requirements such as the need for use of “sufficiently pessimistic” assumptions for the unfavourable performance scenario will either need to be subject to detailed guidelines, potentially creating safe harbours, or be left to the individual interpretation of each manufacturer, reducing comparability between different investment products.

Accordingly, we would strongly urge the ESAs to revise its advice to the European Commission to provide for a more prescriptive approach in the selection of performance scenarios, such as the hybrid approach described in option 7.3. At the very least, the data and calculations used by manufacturers to arrive at their performance scenarios should be published on the manufacturers' websites and disclosed to regulators, so that they can be scrutinised by interested parties.

In the absence of a more prescriptive approach, it seems highly likely that manufacturers will use the Delegated Regulation as a blank cheque to use overly optimistic performance scenarios to make their products more attractive to investors.

Are there significant impacts you are aware of that have not been addressed in the Impact Assessment? Please provide data on their scale and extent as far as possible.

<u>Standardised narratives</u>

The Panel supports disclosure to consumers where this form of transparency enables consumers to make well-informed decisions. Consumers' ability to make informed decisions is often impeded by information overload and excessive use of financial jargon and legal language that stops consumers engaging with information.

In this respect, we are concerned that the current drafting of some of the standardised narratives under the Risk & Reward sections of the KID as presented in the appendixes to Annexes III and V could be improved to ensure they are more readily understood by consumers. We have included our suggestions for the narratives in the table below.

Section	Element	Narrative in the consultation paper	Proposed narrative
Risk Indicator	A	The summary risk indicator is a guide to the level of risk of this product. It helps you to assess it and compare it with other products. It takes into account how likely it is that you might lose money and whether the money you have invested has some form of protection.	**How much risk am I taking?** The risk indicator is a guide to how likely you are to lose money if you invest in this product. Use it to compare against other products of this type. It does not take into account whether your investment is covered by a consumer protection scheme in the event that your provider does not have the funds to pay you. This is information is provided in the "What happens if [the name of the PRIIP manufacturer] is unable to pay out?"
	C	The money you get back is in [insert currency], which means that the value of this product to you also depends on the exchange rate between [currency of product] and [currency of the country in which the product is offered].	**Be aware of currency risk.** This product is valued in [currency of country in which the product is offered]. If the proceeds of your investment are paid to you in a different currency, the amount you get back will depend on the exchange rate between the two currencies.
	D	The summary risk indicator shown assumes that you keep the product for the recommended holding period.	The risk indicator assumes you keep the product for the recommended holding period. If you cash the product in before the recommended holding period, it may increase the risk you are taking and you may get back less.
	E	The risk score does NOT take into account whether you can take your money out early or the costs you might incur for doing so.	The risk score does NOT take into account whether you can take your money out early or the extra costs you might pay for doing so.
	F	Be aware that, if you cash in early, you may incur additional costs or losses.	Be aware that, if you cash in early, you may pay additional costs or get back less than you invested. Additionally, be aware that it may not be possible for you to cash you investment in early.
	G	Additionally, be aware that it may not be possible for you to cash in early, or, if you do so, you may incur additional costs and losses.	*[Should be merged with element 'F']*
	H	Other risks materially relevant to the PRIIP not included in the summary risk indicator to be explained with a maximum of 200 characters]	

Section	Element	Narrative in the consultation paper	Proposed narrative
	I	The value of your original investment is [insert%] protected against losses due to market events at maturity, though the returns are not guaranteed.	You will receive back at least [insert value in money]. Any original investment or additional return over and above this amount is not guaranteed.
	K	However, this protection does not apply [..] • Where applicable early exit; [should you cash-in before [… years/months/days]] • Where applicable default payments; should you fail to make your payments in time. • Where applicable other limitations as mentioned above: explain with a maximum of […] characters in plain language.	However, this will not apply if you: • Cash-in before [years/months/days] and/or • You fail to make your payments in time and/or • [insert other limitations]
	J	The amount that you have invested is not protected so in some unfavourable circumstances you could lose all of your investment.	**Your money is not protected** The amount you have invested is not protected. You may lose all or some of your money. If the manufacturer (we) are not able to pay you what is owed, you could lose all or some of your money.
	M	In the event the manufacturer (we) is (are) not able to pay you what is owed, you could lose your entire investment.	**Your money is protected** Your investment is covered by an investor protection scheme if the manufacturer (we) are not able to pay you what is owed. For more information, please refer to the section "What happens if [the name of the PRIIP manufacturer] is unable to pay out?"
	O	You may be obliged to add to your initial investment and the total loss you incur may significantly exceed your total investment.	In some circumstances you may be required to make further payments to pay for losses. This means you might not get any return on your investment, you might lose the original money you invested and still have to make payments to cover your losses.
Performance scenarios	A	This [table/graph] shows the money you could get back over the next [recommended holding period] years, under different scenarios, assuming that you invest €[…] [per year].	This [table/graph] show you how much you might get back over the course of the recommended holding period for this product based on different scenarios. The figures are based on an investment of € [….] [per year]
	B	The scenarios shown are a simplified representation of possible outcomes. You can use these scenarios to compare with the scenarios of other products, because they are calculated under similar conditions.	The scenarios shown are a simplified explanation of possible outcomes and are calculated in the same way for all investments of this type. Use them to compare one product with another.
	C	The scenarios presented are not an exact indicator of future performance, but an estimation to that effect. What you get will vary depending on how the market performs and how long you keep the investment/product. []	The scenarios shown are only an estimate of what you might get back. The actual value of your investment will depend on how the market performs, the charges you pay and how long you keep the investment/product. The amount of money you get back could also be less if you cash the product in before the recommended holding period.
	D	For the favourable scenario a rise in the market of […]% is shown. So if the market goes up by […]% the money you may get back will [not rise /equally with	The **favourable scenario** assumes a rise in the market of [..]% [each year/over the period of the investment]. If the market goes up by a different amount you

Section	Element	Narrative in the consultation paper	Proposed narrative
		the market/ not rise any longer/be cancelled].	will get back more or less than the amount shown.
	E	For the moderate scenario a [rise/drop] in the market of [...%] is shown. So if the market goes up/down by [...%] the money you get back will [not rise/ not rise equally with the market/ not rise any longer/ be cancelled].	The **moderate scenario** assumes a [rise/drop] in the market of [..%] [each year/over a given period]. If the market goes up/down by a different amount you get back more or less than the amount shown. You may even get back will less than you invested.
	F	And –for the unfavourable scenario a fall in the market of [...%] is shown. So if the market drops by [...]% the money you get back will [not drop any further/ not drop equally with the	The **unfavourable scenario** assumes a fall in the market of [...%] [each year/over a given period]. If the market drops by a different amount you will get less than this. You may even get back less than you invested.