

Brussels, 21 June 2013

Dear Madam, dear Sir,

We would like to present you our concerns regarding the latest developments concerning the PRIPs dossier.

The European fund industry represented by EFAMA has always strongly advocated the underlying idea of PRIPs which is alignment of product transparency standards among retail investment products. We firmly believe that the introduction of a Key Information Document as a uniform information tool for all PRIPs is likely to effectively improve investor protection by standardizing and simplifying presentation formats and thus enhancing product comparability for investors. It should also contribute to the creation of a level playing field in the area of retail distribution.

Unfortunately, the recent discussions on the EU Parliament's position with regard to PRIPs are increasingly diverging from the initial regulatory approach proposed by the Commission and even threaten to undermine the feasibility of the whole initiative. This relates in particular to the following new aspects under consideration:

- **Scope:** EFAMA supports the idea that all forms of savings and investments should have proper and effective disclosures. However, we support the Commission's Proposal to focus first on Packaged Retail Investment Products (PRIPs). Because they are packaged, PRIPs have certain specificities and common concepts which should be disclosed to investors and which differ from simple savings and investments. If unpackaged products such as ordinary deposits, shares or bonds (both corporate and sovereign) were to be included in the proposed KID framework, sections of the document would need to be tailored accordingly and separate Level 2 measures would be necessary. As such, and for the purpose of this Key Information Document, there is no rationale to include ordinary shares or bonds into the scope. However, private pension products should be included in the scope.
- In order to avoid significant delays in the implementation of the PRIP KID, and to increase investor protection within a reasonable timeframe, we instead suggest that the scope of the review clause should include not only PRIPs and UCITS but also products falling under Directive 2003/71/EC and all other forms of savings and investments. This would enable the practical experience of consumers, regulators and the industry in the use and production of both the UCITS KIID and the PRIP KID to be leveraged, in order to design workable and effective disclosures for other retail savings and investment products.
- **Rules on eligible assets (art. 4a):** The objective of the PRIPs Regulation as proposed by the Commission is standardization of product transparency rules, not intervention into the product manufacturing process. Rules on eligible assets are an integral part of the UCITS Directive and they represent a core element of product regulation which is generally unknown to investment products outside the fund sector. EFAMA strongly objects to the introduction in the PRIPs regulation or requirements in terms of eligible assets which cannot be introduced in the Regulation on key information document and disclosure obligations. These proposals would require detailed impact assessments before being put in place. In that context, one should bear

in mind that certain existing PRIIPs (notably UCITS) are already subject to eligible assets rules and we should ensure that there is no incompatibility or inconsistency with the existing rules.

- **Extension of content beyond the key elements (art. 8):** We are very worried by the indications that the content of the PRIIPs KID might be extended by inclusion of many new sections or addition of a huge number of new information items to those covered by the Commission's proposal. In substantive terms, our major concerns relate to the distinction between an investment in real economy, a bet and a synthetic indicator, the general request for future performance scenario instead of a synthetic indicator (which could be misleading for investors) as well as additions of individualised information regarding costs and the product's past returns. Against this background we strongly urge to delete the idea to require that a KID shall contain an ex-post disclosure concerning the investment product's return in comparison to other products which might be part of the investor's portfolio. It has to be borne in mind that part of the investor's portfolio would result in **individualised KIDs** to be drawn up for every investor which is not in line with the requirement to provide a standardized KID.
- Product specific information is something the manufacturer can provide, but individualized information is specific to the distribution channel of choice of the client and the arrangements he makes with his distributor. It is best regulated under MiFID and IMD. We believe that the PRIIPs KID should be expected to provide the very essential information necessary to reach an investment decision. The consumer testing conducted in the course of the UCITS regulatory process evidenced that retail investors are overstrained by too many details and only willing to read short and concise documents. Thus, the discussed extensions in terms of content might in the end prove detrimental by reducing the practical relevance of the KID. Investors wishing to obtain a more detailed picture of an investment should be rather directed by the KID to other sources of information e.g. prospectuses, annual reports, fact sheets, and other contractual documents.
- **Warning label for certain products (art. 8a):** Similar issues as with the rules on eligible assets (see above) arise in relation to the discussed introduction of a warning label. The application of a warning label articulates the regulatory appraisal that products with certain features are more complex/more risky and thus less suitable for retail investors. To our knowledge, however, no systematic evaluation or cross sector objective risk/reward measure of investment products potentially qualifying as PRIIPs in terms of their complexity or riskiness is available, in spite of efforts in certain Member States. In our view, such market-wide evaluation should be considered a fundamental condition for imposing regulatory warnings which might stigmatize certain products. Before such a cross-sector warning label is introduced, such an objective, cross sector risk/reward measure should first be developed. Intensive discussions with the stakeholders and the wider public are also necessary to ensure that the regulatory intervention is proportionate to the potential risks. Meanwhile the suitability and appropriateness tests of MiFID work on the level of individual clients to achieve the goal these proposals aim for. This test should be introduced in IMD.
- **Provision of a KID (art. 12 para.1); (art. 12 para.1):** We are very concerned that the distribution of financial products will be hampered by measures which generate solely red tape or pose an artificial hurdle but no added value in terms of investor protection. It is not appropriate to provide a KID in every case when a KID revision has taken place. Only if the KID revision reflects "a material change" (aligned with art. 23 para. 2 of the level II provisions for the KIID (Regulation 583/2010/EU)) it shall be ensured that a KID will be made available promptly. Especially with regard to successive transactions (i.e. in the context of savings plans) the retail client has already taken the investment decision, solely the execution takes place frequently. In this context it is not necessary to provide the retail client with all updated key information documents unless

upon explicit request or if a material change occurred. The missing value added would contrast to the high costs that have to be borne in the very end by the investors. Most retail clients throughout the EU use investment advice services and order services via distance communications like telephone. In this context some flexibility is necessary to meet these needs (see COM proposal and amendment 41). Therefore it is not feasible to require providing the KID without delay.

All these new discussion points might significantly delay the adoption of the PRIPs Regulation. Given that the progress of the PRIPs initiative after its initiation in 2007 has so far been very slow, any further postponement in terms of adoption must be expected to weaken the relevance of the whole project. This, in turn, would send a negative signal as regards the importance of effective investor protection for the EU legislator.

For these reasons, we would like to return to the primary objective of the initiative which is the provision of high quality standardised product information. In this regard, we believe that the Commission's proposal represents a balanced and appropriate basis which certainly can be further improved in some respects. It should not be overrun by an entirely new regulatory approach.

We remain at your entire disposal for further discussion of the issues raised in our letter.

With kind regards,

Peter De Proft
Director General