



# Financial Services User Group (FSUG)

Brussels, 12.02.2015

## FSUG Response on Discussion Paper on Key Information Documents for PRIIPs

### About FSUG

The Financial Services User Group (FSUG) is an expert group set up by the European Commission following the core objective “to secure high quality expert input to the Commission’s financial services initiatives from representatives of financial services users and from individual financial services experts”. The mandate of the group is to:

advise the Commission in the context of the preparation of legislative acts or other policy initiatives affecting users of financial services, including consumers, retail investors and micro-enterprises;

provide insight, opinion and advice concerning the practical implementation of such policies;

proactively seek to identify key financial services issues which affect users of financial services;

where appropriate, and in agreement with the Commission, liaise with and provide information to financial services user representatives and representative bodies at the European Union and national level, as well as to other consultative groups administered by the Commission, such as the European Consumer Consultative Group, the Payment Systems Market Expert Group, the European Securities Markets Expert Group and the Expert Group on Financial Education.

### General remarks

PRIIPs are at the core of the retail investment market. They cover a range of investment products that are marketed to retail investors which, taken together, make up a market in Europe worth up to €10 trillion. As PRIIPs cover a wide range of – per definition – structured products which can take a variety of legal forms that might involve multiple charges and which include different risk profiles, FSUG stresses the strong need for a simple, pre-contractual document that enables retail investors to reach well-informed investment decisions by enabling them

- to understand the product, including its risks, rewards and the effects of costs/charges
- to easily compare it to other products and
- to assess whether a certain product is the right one for his/her needs.

In that respect there is a need to benefit from all the experience accumulated on the work done for the KID for investment funds (UCITS IV Directive), and for its subsequent implementation by the industry.

FSUG therefore very much welcomes the approach taken by the Joint Committee to start from the consumer perspective by assessing options from the consumer perspective and by identifying Key Questions in order to streamline the KID to retail investors' needs. We, however, question the rationale and effectiveness of launching a consumer testing on what information retail investors consider important/are able to understand already in autumn 2014, i.e. before getting any input from stakeholders.

We consider that the RTS should first and foremost be directed to the following objectives:

- Ensure consistency throughout all parts of the KID as well as consistency with the underlying legal documents (prospectus etc.)
- Ensure that the KID's behavioural purpose and effectiveness for retail investors remains at the forefront and may not be circumvented, e.g. by an overload of information, the use of (financial/legal/marketing) jargon or the use of smaller font size for risks than for rewards.
- Ensure that any costs/charges/fees are always be presented in a clear, comprehensive and not misleading manner and that in cases where additional costs, e.g. from the distributor may be charged, this must be clearly stated in the KID.

Standardization, if appropriately used, is not only a strong and efficient tool to ensure comparability but can also be a strong means for ensuring regulatory consistency. This will support the effectiveness of a strong supervision and enforcement. FSUG therefore calls on the ESAs to ensure that the KID becomes an EU-wide harmonized document which contains meaningful and all necessary information, which is understandable by all retail investors and which does not only cater for the lowest common denominator of investor understanding.

To that end, FSUG suggests that a harmonized KID is being prepared by the ESAs including the involvement of investor/consumer associations.

**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?**

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

Generally we agree, however, we miss questions relating to the risk itself, i.e. "Which risks are (not) measured by the summary risk indicator?"

**Q 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?**

Yes we agree.

**Q 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.**

**Q 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?**

**Q 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?**

FSUG is very concerned that disclosures on historical performance - and especially on the comparison between historical performance of the product and that of the relevant benchmark (as determined by the product's manager) could be eliminated under PRIIPs regulation. There had been a lot of work done for many years to achieve this major improvement in the KID for UCITS investment funds (UCITS IV Directive). With the PRIIPs Regulation as it stands, we are very concerned that even UCITS funds will have to eliminate this key information from their KID within 5 years (article 32 of the Regulation). Certain investor organizations like Better Finance and others (including the ESAs) are already struggling to get clear and comparable data on the past performance of retail investment products. This may be a huge step backward if no solution would be found at level 2. Of course, FSUG acknowledges that past performance is not a reliable predictor of future performance. However, without any information on past performance (including compared to benchmarks), EU citizens will not even know:

- if the product has generated any positive performance in the past or - on the contrary - has destroyed the value of their savings
- if the product has met or exceeded its stated investment objective
- if the product has matched or not the performance of its benchmark

Even worse would be the case that EU citizen would be left only with "scenarios" on future performance which we strongly believe are even more misleading than past performance. And we have the experience of the work on the KID of structured UCITS funds where the use of scenarios (like (pessimistic, median and optimistic) that are not probability weighted is possible. Therefore, the average investor is led to believe that the "median" scenario is the most probable which is not the case.

We therefore consider that an elimination of any information on past performance and especially past performance compared to that of the benchmark(s) chosen by the investment product provider would be a huge step back. Taking into account that the need for historic performance information has not been explicitly included in the Regulation FSUG considers that historical performance data should at least complement forward-looking indicators as this is important to put the latter in perspective.

In our opinion this should be done by presenting past performance scenarios in a separate graph.

With regard to forward-looking performance scenarios FSUG considers that they should be probability weighted to the maximum extent possible whereby comparability between the methods used by different manufacturers should be ensured by the ESAs through establishing/prescribing a

commonly used methodology. This to enable retail investors to trust in “high”, “median” and “low” performance scenarios having the same meaning across manufacturers.

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

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

FSUG considers that there should be coherence between time frames chosen for disclosure of (past) performance and the recommended holding period/maturity of the product. Next to that, standardized time frames (e.g. 1, 3, 5 and 10 years) should be used for performance scenarios given the fact, that the KID is not a personalized but a pre-contractual document. FSUG considers that the inclusion of short time frames are necessary also in cases where the product has a longer recommended holding period as this may help investors understanding the impact of short term holding against long term holding.

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

Overall it needs to be ensured that retail investors do not get lost in details but receive engaging information which gives a good insight in the product’s performance.

For future performance this should be provided by displaying performance scenarios in both absolute and percentage terms which – by nature – would have to be prepared based on average or standard investment amounts of a certain product.

As regards past performance, we consider the use of percentages as it is currently provided under UCITS framework as sufficient, especially if combined with a comparison to a benchmark (whenever possible).

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

One would have to include the maximum entry and exit fees, as evidence shows that most individual investors do pay entry fees.

FSUG considers that the overall aim must be that charges should always be presented in a clear, comprehensive and not misleading manner and that in cases where additional costs, e.g. from the distributor may be charged, this must be clearly stated in the KID.

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

We consider the presentation of three scenarios (low, expected, high performance) plus a complementary past performance scenario as the maximum number possible given the page limitations of the KID.

**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.**

At this stage, FSUG has a slight preference for a single risk indicator compared to that used in The Netherlands in their financial leaflet as it seems to be very engaging for investors and would adhere to the aim of the KID to be a short and simple information sheet. However, whichever risk indicator is chosen this should be subject to prior consumer testing.

**Q 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 reiterate our request to present probability weighted performance scenarios to retail investors, see our answer to Q6.

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

Given our remarks above we favor the presentation in form of a single risk indicator and multiple performance scenarios, both visualized. Again, it should be essential that the presentation is sufficiently engaging for retail investors. We currently do not have a preference as regards the presentation in separate or in one single element and support that this will be left for consumer testing.

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

We agree.

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

Consumers would benefit most from information that is concise, standardised and easy to compare between different product providers. The overall aim therefore should be giving the retail investor already ex ante a full picture on how much he will have to pay for a certain product. The discussions that came up during MiFID II showed that the main challenge with regard to cost disclosure is the inclusion of all possible cost/charges. FSUG considers that any cost the manufacturer is aware of needs to be included in the KID in a way that enables the investor to compare the costs for one PRIIPs with another and that the overall/cumulative effect of costs on overall return is made clear and not presented in a misleading way. As the KID is a generic document we consider that cost disclosure should be made for standardized investment amounts and should relate to the maximum charges possible.

To this end, another challenge will be to ensure the comparability of costs between products which we acknowledge is a particularly difficult one to meet. Here, especially the comparability of methods to be used for cost calculation across manufacturers not only within one local market but also across the EU should be ensured, e.g. by guidelines from the ESAs.

**Q 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.**

For life insurance products, especially unit-linked insurance contracts, it is critical to include the fees charged on the assets of the units themselves to the fees charges on the contract itself. This is already mandatory for funds of funds: the total cost has to include those of the underlying funds. This is particularly necessary for article 6(3) products.

Also, especially for capital guaranteed life insurance contracts, it is important to take into account any share of the gross return that is retained by the insurer. In particular, for the number one PRIIP in France (“contrats en euros” with AuM of € 1.2 trillion), the law allows the insurer to keep up to 15% of the gross return of policies. Unless 100% of gross performance is explicitly returned to the policy holders, the part retained by the insurer must be quantified and included in the costs and charges borne by the saver.

**Q 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?**

See above: the retained earnings of insurers on life insurance policies are implicit costs and can be computed by deducting the net return (before management charge) from the gross return of the insurer.

For structured products, the manufacturer (typically trading rooms of financial institutions) knows and should disclose its ex ante profit.

**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.**

See our reply to Q 17 above.

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

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

Yes. FSUG would like to refer to the decades’ long experience in costs disclosure for US domiciled mutual funds. In particular, the summary prospectus of US mutual funds must provide an investment example in USD (not in percentages). Not only this is much more understandable by the average saver/investor than percentages, but also it allows taking entry and exit fees into account, as well as performance fees for the given example.

**Q 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?**

See above and the US practice for mutual funds summary prospectuses.

**Q 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?**

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

**Q 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?**

**Q 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.**

As a key principle, costs need to be presented in a way which is clear, not misleading and their cumulative effect on return is made clear and engaging for retail investors. Based on this principle, options 1-4 are not favored by FSUG as they either exclude certain costs like entry/exit costs (options 1-4) or seem to be not engaging enough (e.g. option 7).

**Q 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?**

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

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

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

FSUG agrees with the ESAs that identity information on manufacturers should be kept as brief as possible. To ensure that certain groups of retail investors are not excluded by publishing a link to the manufacturer's website only, we recommend requiring also the publication of a phone number and a postal address. We are in favor of including an identifier, like an ISIN, in the KID if such an identifier is available for the respective PRIIPs.

**Q 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?**

**Q 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 and support the ESAs approach to address issues via guidance at level 3.

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

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

**Q 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?**

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

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

In life insurance products, “insurance” benefits if any should be clearly distinguished from investment benefits. For example, in unit-linked insurance contracts, any capital guarantee at the time of redemption must be identified separately, and - if it is optional – so must be its related costs and charges.

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

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

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

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

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

Yes we agree under the conditions prescribed in the RTS.



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

**Q 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?**

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

**Q 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?**

The costs and charges of underlying products must be included in the overall cost number by taking the lowest and the highest cost of the underlying products and referring to the KID of the underlying product for further information.

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

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

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

**Q 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?**

No, we do not foresee particular challenges, as this is already the case for ETFs (Exchange Traded Funds) which are UCITS: under the UCITS IV Directive they are already subject to release and update a KID and that never generated any particular challenges to our knowledge. ETFs are indeed sold both on a primary and on a secondary market.

**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?**

No, we do not foresee any particular challenges. Indeed, this is in particular the case of unit-linked life insurance contracts, which include a wide range of "units" (sometimes more than one hundred). It is out of question to list all the investment options in that case, and there should be a link to the complete list. It will be up to the provider of the product to keep this list up-to-date on its own website. As far as costs and fees disclosure is concerned, the minimum and maximum consolidated cot should be disclosed, respectively based on the least - and the most expensive unit.

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

An active communication model should at least be followed in the following circumstances:

- material changes to the charging/cost structure
- material changes to the risk profile
- material changes to the PRIIPs investment objective

**Q 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 we agree.

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

The time necessary for the specific retail investor to adapt the generic information in the KID to his/her personal situation.

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

Yes we agree. Standardization, if appropriately used, is not only a strong and efficient tool to ensure comparability but can also be a strong means for ensuring regulatory consistency. FSUG therefore would support an EU-wide harmonized KID which contains meaningful and all necessary information, which is understandable by all retail investors and which does not only cater for the lowest common denominator of investor understanding. To that end, FSUG suggests that such a harmonized KID is being prepared by the ESAs including the involvement of investor/consumer associations.

**Q 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?**

Where the payment structure (single investment vs. periodic payments) leads to a different risk and/or reward profile of one same product manufacturers should prepare a separate KID for each offer possible under this product. Given the fact that the KID is a generic document, for regular payments standardized amounts typically invested in such a product should be used for calculation.

**Q 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.**

**Q 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.**

**Q 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

