EACB Response to the Joint Discussion Paper on Key Information Documents (KIDs) (JC/DP/2014/02)

17 February 2015

The **European Association of Co-operative Banks** (EACB) is the voice of the co-operative banks in Europe. It represents, promotes and defends the common interests of its 29 member institutions and of co-operative banks in general. Co-operative banks form decentralised networks which are subject to banking as well as co-operative legislation. Democracy, transparency and proximity are the three key characteristics of the co-operative banks' business model. With 3,700 locally operating banks and 71,000 outlets co-operative banks are widely represented throughout the enlarged European Union, playing a major role in the financial and economic system. They have a long tradition in serving 215 million customers, mainly consumers, retailers and communities. The co-operative banks in Europe represent 56 million members and 850,000 employees and have a total average market share of about 20%.

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Introduction- General Remarks

The EACB welcomes the opportunity to contribute to the Joint Discussion Paper on Key Information Documents (KIDs) (JC/DP/2014/02), as co-operative banks are amongst the major distributors of a large variety of retail investment products.

Concerning the Discussion Paper, we would like to raise the following key points:

- The EACB considers that the PRIIPs KID should stick as much as possible to the way of presentation of UCITS risks, costs and rewards. UCITS KIID has proved to be quite a clear and successful way of presenting the key figures, and this is why completely new models of presenting the key figures would not be advisable. Customers are now familiar with the UCITS KIID and we should continue using the same kind of presentation, making the necessary adjustments. For more detailed comments please refer to our responses below.
- It is very important to try to find ways to present the key figures which are clear and simple enough for the consumer to understand. The KID is a document for standardized key information, which means not all information can be displayed. A balanced approach between the amount of information (not too detailed) and the ability for the customer to receive, understand and compare the products is crucial.

  The design of the KID needs to take account of the limited amount of pages (3) and of the fact that distribution channels vary. Products might be sold online as well, and in these cases the customer needs to understand the information by reading the KID himself / herself.
- The members of EACB also consider that consumer testing is very important in order to achieve results in the best way of presenting risks, costs and rewards.
- In general, the members of EACB agree that market, credit and liquidity risk are the main risks for PRIIPs. These different risks (market, credit and liquidity) should be shown separately. Therefore, we have certain reservations concerning the aggregation of market, credit and liquidity risks in to one summary risk indicator and its effectiveness. We would consider that if such a summary risk indicator is developed it should be explained in a very simply way, e.g. by indicting: low, medium, medium-high, high risk.
- Market risk could be explained with a quantitative measure. Credit- and liquidity risk should be explained in qualitative format.
- The cost section should be balanced compared to the other sections of the KID. It could be difficult for issuers to elaborate all the information on costs listed in table 12 of DP. Furthermore, consistency with the information provided under MiFID II and Prospectus Directive should be ensured.
- With regard to information on distribution costs that advisors, distributors or seller have to provide, it should be clarified if advisors, distributors or sellers have to integrate the KID or provide the information in other ways outside the context of the KID.

COMMENTS REGARDING THE SCOPE- "DERIVATIVES OF ALL TYPES":

With regard to the scope, which is further clarified by the Joint Committee in the present Discussion Paper, we would like to point out the following:

- Derivatives that do not offer an "investment opportunity" but only have a hedging purpose (no speculation at all) should be out of scope.

- Products based on an interest rate exchange, such as an interest rate swap, a forward, an option should be out of scope, these products "do not offer investment opportunities and these products are solely exposed to interest rates" (recital 7 PRIIPs). Furthermore, there is the risk that a bond with floater rate with cap/floor could also fall within this category and thus, be considered as being covered by the PRIIPs requirement.

This is in line with the definition in Art. 4 a) PRIIPs Regulation and the rational of the Regulation as specified in recitals (6), (7) and (9), since there is neither an "investor" nor an "investment" nor an "amount repayable".

However, in par. 13 of the discussion paper the ESAs do not seem to share this view when it comes to "retail investors". Unfortunately, the present discussion paper disregards that many small and medium-sized corporate clients, even if classified as "retail clients" under MiFID, are not involved in investment activities, but enter into OTC derivatives contracts to secure their business. With this in mind, we consider that the numerous requirements under PRIIPs-regulation are not appropriate for such hedging transactions.

Moreover, the standard bank OTC- derivative transactions in interest rate and currency exchange concluded for hedging purposes bear special characteristics. These characteristics do not seem to be taken into account in the relevant discussion paper. This leads to imposing inappropriate PRIIPs requirements on these standard bank OTC- derivative transactions which could not be implemented in practice. For example, when it comes to the representation of risk all basic calculations indicate an actual investment including physical repayment upon customer's demand. How this could be implemented on these OTC derivatives remains completely open.

We therefore strongly urge that it is clarified that standard banking practices in OTC derivative transactions concluded for hedging purposes do not fall within the scope of the PRIIPs Regulation.

Responses to the Questions of the Consultation

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 members of EACB consider that the consistent development of the PRIIPs regulation with regard to MiFID II is of utmost importance. While PRIIPs Regulation requires that the Key Information Document (KID) contains a description of the consumer type to whom the PRIIP is intended to be marketed, in particular in terms of the ability to bear investment loss and the investment horizon, MiFID II provides for a determination of a "target market". In our view, it is necessary that the determination of these concepts follows a similar approach and therefore no divergent method for determining "target market" on the one hand and "consumer type" on the other is be chosen.

- Even though UCITS products are currently exempt from the scope of the Regulation, PRIIPs KID should include appropriate descriptions also of these products. This is in particular the case for information towards investors. Thus, the methods of risk presentation, the costs returns and performance presentation for all categories of products must be appropriate. In our view, the accuracy of such information is an absolute priority, even if the specific features of a product require different or additional representations.

At the same time, the regulatory approach should also ensure a level playing field in the competition of product categories. Risk factors or costs representations that favour one product category compared to other product categories are inappropriate and should be avoided.

In any case, any already foreseeable change due to a later inclusion of UCITS products must be avoided.

- There should be a consistency between PRIIPs, MiFID II and other EU law in particular with regard to cost transparency. The most important aspects are already addressed in Annex 1 of the discussion paper under "Interaction between the PRIIPs Regulation and MiFID II".

  The definition of the cost categories to be provided in the KID should be uniform and exhaustive also for the particular product categories with respect to other EU regulations. Different or complementary cost information in addition to the product information requirements under PRIIPS should not exist under other EU legislation (in particular on the basis of MiFID II).

  In particular, the identification of the costs must follow the principle of the “ownership of the information” which appears to not always have been applied in the discussion paper. On the one side are cost information of the product for which the original manufacturer of the product is responsible, and on the other side are the information about the costs associated with distribution services for which the intermediaries are responsible. For transparency in the market, it is essential that the product cost information contained in the KID and the KIID are both exhaustive and that all market participants, including intermediaries, can rely on them.

  Otherwise, if no consistency of existing and future regulations is achieved in this respect, private investors would be faced with several information of various kinds with regards to cost, created by different market participants (for example using a product information sheet of the product manufacturer and an additional cost of information of the intermediary). This would undermine the objective of maximum transparency and ultimately hinder investors to compare the products. Moreover, the additional costs both for the product manufacturers and distributors could ultimately be born by investors.

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

In general the EACB agrees with the description of the consumer´s perspective on risk expressed in the Key Questions. However, we feel that market risk is the most important factor to be displayed and it is the only one which can be displayed in figures. Credit and liquidity risks are also important but they need to be displayed in narrative form.

3: Do your 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?

In general the EACB agrees with the definition of market and credit risk. In terms of liquidity risk we would recommend a clearer presentation/explanation. In general, there are two different aspects of liquidity risk - investor liquidity risk and underlying/ PRIIP liquidity risk – however, this distinction is not clearly enough presented in the current definition. Another indicator for illiquidity could be a discount on the net asset value. Moreover, as we already noted in Q 2 we feel that market risk is the only risk which can be displayed in figures. Credit and liquidity risks should be displayed in narrative form.

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.

In general, the EACB considers that market risk could be explained with a quantitative measure most appropriate for the PRIIP. Credit- and liquidity risk should be explained in qualitative (narrative) format.

With this in mind we would like to share the following considerations:

- **Possible measures of market risk**

  In general, and as agued in detail in our response to Q6 below, we would not support performance scenarios based on advanced probability and statistics calculation methods especially for retail investors. These are heavily depended on individual assumptions, simulations and forecasts, which do not only need further explanation, but are also difficult to verify to the extent that these are not solely based on historical data. At the same time, they do not offer a reliable indicator of future performance. In addition, the financial crisis has shown that probabilistic models could lead to retail investors building up expectations that are too optimistic and even misleading. The same applies to any risk indicator based on probabilistic forecasting.

- **Possible measures of credit risks**

  Methodologies like “credit value at risk” are too complicated to compute and unknown to retail investors. In addition, it should be noted that the CDS market is limited to a small number of liquid names (mostly sovereigns, some banks) and many issuers (not listed on regulated markets) will not have a credit spreads available.

  A qualitative measurement of this type of risk can overcome the limitations of quantitative measures that could not take into account the specificities of all issuers.

  Therefore, we prefer to use a qualitative measure as “prudential supervision” criterion (see table 5, page 28 of DP) with a distinction between entities subject to prudential supervision (credit institutions, investment firms, insurance undertakings) and other entities, as well as take into account the existence of guarantee scheme to protect investors. Moreover, it should be clear that the absence of the rating does not represent a risk.

- **Possible measures of liquidity risk**

  It should be noted that most of the products will only have a limited secondary market (if any) provided by the manufacturer, but this does not necessarily mean that liquidity is low. Furthermore, bid-offer spread or average volume traded are not available for new products.

Therefore, a qualitative measurement of this type of risk can overcome the limitations of quantitative measures that could not take into account the mentioned conditions.

Finally, for each type of PRIIP, it should be feasible to allow the application of alternative measurement methods ensuring the same scale of risk indication (for e.g. low, medium e.t.c.) safeguarding the comparison of information.

For example, for bonds the manufacturer could use either volatility or VAR to measure market risk. With this approach, it would be avoided:

- high costs and impacts especially for small issuers which use third parties for the pricing and risk assessment of their products, and

- potential divergences with suitability methodologies adopted under MiFID.

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?

Again, the EACB considers that market risk could be explained with a quantitative measure. Credit- and liquidity risk should be explained in qualitative (narrative) format.

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?

The EACB believes that – especially in the case of packaged products- the performance scenarios should facilitate the understanding of the investor about the way a product functions in different market conditions i.e. should focus on the evolution of the invested assets in different scenarios (product mechanics). This way performance scenarios can contribute to the illustrations of the risk of a product. The representation of – amongst others- a negative scenario is thus an important addition to the risk indicator together with the descriptive explanation.

The EACB believes that performance scenarios based on advanced probability and statistics calculation methods are not easily understandable by retail investors. Indeed, performance scenarios based on probabilities are to be seen very critical because they are heavily depended on individual assumptions, simulations and forecasts, which do not only need further explanation, but are also difficult to verify to the extend that these are not solely based on historical data. At the same time, they do not offer a reliable indicator of future performance.

In addition, the financial crisis has shown that probabilistic models could lead to retail investors building up expectations that are too optimistic and even misleading. In addition, the illustration of a negative development of the product might be missing, in case such a negative development was calculated as minor or not likely to occur when developing the relevant product.

In addition, probabilistic representations lead to a continuous need for change and thus to higher costs, which would ultimately be borne by the investor.

The EACB would recommend a presentation of performance scenarios that do not include any implication as to the likelihood of possible outcomes, as this could arouse false expectations for the retail investor. We consider that it would be better to present three scenarios (positive, neutral, negative) without providing any likelihood.

Consumer testing is important in order to achieve results in the best way of presenting performance.

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

In any case we would like to stress that it is crucial to have consistent approach across all manufacturers to avoid regulatory arbitrage.

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

Due to the very different structures of the PRIIPs the establishments uniform time frames for performance scenarios seems pointless. If the time frame is set too long, for example longer than the product life cycle, the holding period is irrelevant. If it is too short, the product features do not come to fruition and the meaning / the idea of the product is lost. However, what is too short or too long, depends both on the type of product, as well as the individual product itself. Same time frames for different products will not bring comparable results.

Therefore, from an investor's point of view it makes sense that the timeframe is flexible, according to the maturity of the product or the recommended holding period (e.g. It is noted that concerning funds (in particular UCITS), which are in most cases products of indefinite term, their performance estimations are described in accordance with the recommended holding period (corresponding to the KII)). The yield information could be specified annually to allow comparability with products of different duration

Also for products with an indefinite term, the issuer can not know when the investor would later dispose the financial instrument. It would therefore be advisable to focus on a forecast period of one year. Here, too, an effective yield would be specified annually.

Performance scenarios with different maturities would be particularly problematic not least for reasons of space capacity.

Performance scenarios for products that do not offer an "investment opportunity" but only have a hedging purpose (no speculation at all) would be totally misleading. We suggest to clarify that such products do not fall within the scope of the regulation, as already argued in our general comments concerning this Discussion Paper which can be found in the attached document but we also list here for completion:

> "• Derivatives that do not offer an "investment opportunity" but only have a hedging purpose (no speculation at all) should be out of scope.
>
> • Products based on an interest rate exchange, such as an interest rate swap, a forward, an option should be out of scope, these products "do not offer investment opportunities and these products are solely exposed to interest rates" (recital 7 PRIIPs). Furthermore, there is the risk that a bond with floater rate with cap/floor could also fall within this category and thus, be considered as being covered by the PRIIPs requirement.

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However, in par. 13 of the discussion paper the ESAs do not seem to share this view when it comes to "retail investors". Unfortunately, the present discussion paper disregards that many small and medium-sized corporate clients, even if classified as "retail clients" under MiFID, are not involved in investment activities, but enter into OTC derivatives contracts to secure their business. With this in mind, we consider that the numerous requirements under PRIIPs-regulation are not appropriate for such hedging transactions.

Moreover, the standard bank OTC- derivative transactions in interest rate and currency exchange concluded for hedging purposes bear special characteristics. These characteristics do not seem to be taken into account in the relevant discussion paper. This leads to imposing inappropriate PRIIPs requirements on these standard bank OTC- derivative transactions which could not be implemented in practice. For example, when it comes to the representation of risk all basic calculations indicate an actual investment including physical repayment upon customer's demand. How this could be implemented on these OTC derivatives remains completely open.

We therefore strongly urge that it is clarified that standard banking practices in OTC derivative transactions concluded for hedging purposes do not fall within the scope of the PRIIPs Regulation."

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

In general, the EACB would propose providing relative values with the possibility to use absolute figures in brackets. Absolute figures can be presented on basis of a hypothetical investment amount, which equals the typical volume invested by customers**.**

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

No answer for the time being.

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

As already mentioned above, three different scenarios (positive, neutral, negative) should be provided. However, if deemed necessary issuers should be allowed to add further scenarios.

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.

Bearing in mind our reservations concerning the use of a summary risk indicator, the EACB would recommend to use the scale of risks used in UCITS KIID (1 to 7). The scale needs to be wide enough to present options and varieties.

Furthermore, any suggestive representation (red colors for highly risky products e.t.c.) should be avoided. Otherwise, the basic correlation of risk as reward (also represented in the UCITs KID) might become unclear.

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.

No answer for the time being.

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

Generally, the EACB does not recommend providing a combination of a summary risk indicator with performance scenarios as this form of presentation might confuse retail investors. We believe that only presenting risk indicators and performance scenarios separately is less confusing and provides the retail investor with sufficient information for the decision making.

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

The EACB fears that an isolated comparison of the costs of different products is problematic, since the cost should always be considered in connection with services / return opportunities. Therefore, a pure cost comparison could prove misleading. As part of a holistic product comparison, the investor should compare costs and performance, as set out against each other in the respective KID.

As concerns the aspect of cost it is the total cost of the product is the decisive factor for the investor. These total costs would guide the net investment return regardless of the individual cost components.

The cost elements of the different product types are structurally very different. In our opinion it will be very difficult for ESMA achieve comparability of the product-specific cost elements especially to the desired level of granularity.

We believe that what is important for investors is to gain a fundamental understanding of the cost structure of a product i.e. the basic elements that make up the total cost. But even more important is to specify whether the total cost statement is final or it is based on estimates and to note that the personal tax burden on the return should be considered as well.

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

The EACB believes that one of the main challenges in terms of cost disclosure are implicit costs. In order to address this challenge we suggest giving aggregated average value of implicit costs (that are not to be paid separately) for each investment product category instead of defining implicit costs for each single product.

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.

The UCITS KIID presents a good basis for creating a model for calculating costs.

However, it should be borne in mind that MiFID2 regulation (Article 24.4) and the future IMD2 regulation will include provisions on presenting costs. Although concentrating on the point of sale process, these provisions are partly overlapping with PRIIPs requirements. It is important to try to avoid overlaps with the final KID as much as possible. Otherwise, the customer will receive two pieces of different kind of information at the point of sale, which could be confusing for the investor.

Moreover, the EACB considers that insurance premiums should not be regarded as costs. Premiums are paid for the insurance risk cover offered and it is not a cost for the investment.

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?

No answer for the time being.

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.

There are now several things listed in table 12 which should not be regarded as costs, such as taxes, inflation, dividends.

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

No answer for the time being.

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

No answer for the time being.

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?

No answer for the time being.

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?

No answer for the time being.

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

No answer for the time being.

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 EACB believes that the main challenge is to make cost information as comparable as possible. The various products have both different cost structures, as well as various modes of operation and added value (e.g. management or no management). A comparison based on the cost here can lead to a distorted result.

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.

No answer for the time being.

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?

The EACB would recommend that no breakdown of costs is imposed as this information is too detail, extends to too many elements and is complex for retail investors.

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

No answer for the time being.

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

Cumulative costs could be presented using percentages.

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

Generally, we consider that a link to the homepage as well as a telephone number should be included in the identity information; however, we think that the address of the manufacturer is not relevant.

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?

No answer for the time being.

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?

No answer for the time being.

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

The legal type is the most appropriate starting point for the classification.

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

Yes, the EACB agrees.

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?

The EACB would consider that it should be adequate to provide information about the mid-term / long-term goals of the PRIIP, a description about the markets the product invests in and a short description about the PRIIP strategy/aim. It could be useful to help retail investors better understand the relevant features of the specific PRIIP.

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

The EACB supports the ESMA objective presented in chapter 5.4.2.3 to ensure consistency between the PRIIPs definition "consumer type" and the MiFID II definition of the “target market”.

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

No answer for the time being.

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

No answer for the time being.

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

No answer for the time being.

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

No answer for the time being.

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

Yes. The EACB would like to put forward the following considerations: The manufacturer is responsible for the development of the KID in general. However, in many cases the manufacturer doesn’t know the distributor of its products (e.g. online trading platforms). Therefore we suggest to further elaborate on the different options for customer complaints, such as on a detailed differentiation between complaints regarding the product itself or regarding the final distributor´s advice to the customer.

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

Yes, the EACB agrees.

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

Yes, we agree with the assessment in the consultation paper regarding the special features of products offering many investment options and the challenges this brings in presenting information in the KID.

Many unit-linked insurances offer currently the possibility to invest in different kind of investments, not only in UCITS funds. These other underlying investments might be shares, bonds, structured products, almost any kind of object in value. Too detailed information requirements might lead to restrictions in the product variety of insurance wrappers, because it is impossible to give pre-information on all kinds of combinations of different underlying investment objects. It is impossible to disclose different combinations of investor´s choice beforehand, even through specified calculation models which are not personalised.

PRIIPs regulation should in no way restrict the product variety or the options in underlying investments. This is not in the remit of the aim of the PRIIPs regulation itself.

We also fear disclosing information based on artificial and too general assumptions would lead to a requirement to disclose misleading information to the customer.

Selling rules, know your customer and disclosure requirements in MiFID2 and future IMD2 will deal in detail with the disclosure obligations relating to the specific options and wrapper the customer has chosen in a specific case. Further rules in the PRIIPs context would be overlapping.

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?

No answer for the time being.

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

No answer for the time being.

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 KID for the wrapper product should only include information of the wrapper product, not of the underlying investment objects. Due to the variety of different investment objects, any general or artificial information could be very easily misleading for the customer. It is important to note that there are a large amount of other underlying investments as funds as well. It is even more difficult to disclose standardised information on them, as no KIDs are available.

Information on the wrapper should make it clear that there is a multilayer design in the product and all information on the final investment is not available in the wrapper KID.

The wrapper should provide for links to information on the underlying investments, when possible.

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

It is not possible for the product manufacturer to disclose information on the underlying investment objects, because they depend on the choice of the investor, while the amount of possible investment objects can be in hundreds/thousands. The wrapper should provide for links to information on the underlying investments, when possible.

At the utmost it might be possible to disclose the different kind of investment object classes the investor may choose from (in the form of examples). Using ranges of risk and costs for certain investment classes would result in too wide ranges and this information will not bring added value to the customer.

Limited space in the KID needs to be taken into account when deciding on what information on underlying investments can be shown in the wrapper KID. The customer cannot normally grasp and understand the information contained in several graphs or indicators in the same limited document.

It should also be taken into account that after concluding the contract, the customer may any time change the underlying investments in the wrapper.

The EACB considers that consumer testing is very important in order to create the KID requirements in this part. From the product providers´ part, the templates created by Joint Committee would be very helpful. Templates should be published as soon as possible so that product providers are able to make use of them in designing the internal product governance and administrative processes.

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

A challenge is that detailed requirements based on artificial and too general assumptions would lead disclosure of possibly misleading information to the customer.

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

There are challenges in keeping the KID up-to date. It should be avoid an on-going monitoring of the product and an on-going updating of KID. The KID should be reviewed only in case of significant changes

As far as the secondary market is concerned, the KID must be updated/reviewed only in a situation where manufacturer/issuer facilitates the secondary market.

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?

Please see our response above in Q 49.

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?

Please see our response above in Q 49.

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

The members of EACB consider that it will not be possible to inform private investors about changes in the KID in an activate communication model.

First, the manufacturer does not know the identity of the customers or even is not allowed to receive the retail investor's contact details from the distributor due to data security. Secondly it is too costly for the manufacturer to inform the investors on a specific way.

We think there should be a section on the website of the manufacturer to inform about a changed KID.. Only if the retail investor opted for periodic assessment of suitability distributors may have to communicate actively to retail investors.

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, the EACB agrees.

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

The EACB would like to point out that Art. 13.3 of PRIIPs Regulation seems to be in contradiction with Distance selling directive article 5.2. According to PRIIPs regulation, KID might be provided to the customer after the conclusion of the transaction, if the retail investor chooses, on his own initiative, to contact the seller of a PRIIP. However, recital 19 states that Distance Selling Directive [1] still applies. We feel it is important to safeguard the requirements for selling PRIIPs through different distribution channels, also by means of distance communication and online. Further guidance in article 13.3 should not tighten the requirements for distance selling.

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

Yes, the members of EACB would support the provision of templates. Templates would give the possibility for smaller issuers the possibility to distribute standardised products and would foster the proportionality of regulation. In addition, templates would enhance the comparability and quality of the KID. Such templates could be developed through a consultative process.

However, in our view, the use of these templates should be voluntary and their adaptation/ costumisation by the manufacturer should be allowed.

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?

No answer for the time being.

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 answer for the time being.

[1] Directive 2002/65/EC of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer financial services and amending Council Directive 90/619/EEC and Directives 97/7/EC and 98/27/EC (OJ L 271, 9.10.2002, p. 16).

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.

No answer for the time being.

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 answer for the time being.

Contact:

The EACB trusts that its comments will be taken into account.

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