



JOINT COMMITTEE OF THE EUROPEAN SUPERVISORY AUTHORITIES

Joint Discussion Paper on Key Information Documents (KIDs) (JC/DP/2014/02)

Consultation answer from the Federation of Finnish Financial Services

Public

As a general comment we would like to point out to the difficulties relating to bringing OTC derivatives to the scope of PRIIPs, especially if they're used in hedging purposes. These products are sold mainly to SME clients and clients that are out of scope of PRIIPs. In our view it is not appropriate nor comparable to provide KID information on these kind of products. At the moment, special characteristics of these products have not been taken into account in the Discussion Paper. Their main purpose is not investment purpose but hedging purpose, and they are made to measure products created or adjusted for the customer in each individual case. Derivatives that do not offer an investment opportunity but only have a hedging purpose should be out of scope.

For example, when the consumer buys an OTC derivative for hedging purposes, he/she does not do this having the possible return, but the hedging purpose in mind. How to measure and disclose this? As the products are made to measure, the risks of each customer are taken into account in the final product. It is impossible to measure and disclose the risk in a standardized format in advance. Also the costs are made to measure and take account of each customer's individual economical situation with the provider. Another area where we find major challenges in creating an informative, accurate and comparable KID is unit linked insurance products. We feel these products do fall under the scope of PRIIPs. However, there are several challenges in producing the information on these products, which need to be taken into account when drafting the RTS. These challenges will be explained in further detail in our answers below.

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 purpose of the PRIIPs key information document is to disclose the essential information that an investor needs to make an investment decision. The KID should give the investor clear and usable information on investments. According to the FFI, the proposal should also take into account all of the information other EU and national regulation requires to be disclosed to the investor prior to the point of sale. This way the investor can have an accurate picture of the investment they are about to make. The end result should not be that the investor receives slightly different information on the same product due to different regulations, or that the investor receives too much nonessential and non-comparable information for the investment decision. At the moment, it seems there would be overlapping requirements with at least MiFID2 and future IMD2 disclosure, suitability and appropriateness requirements. Overlaps and inconsistencies are referred to in our answers below in more detail.

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?

We feel market risk is the most important factor to be displayed. It is the only one which can be displayed in figures. Credit and liquidity risks are important as well, but they need to 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.

We feel market risk is the most important factor to be displayed. It is the only one which can be displayed in figures. Credit and liquidity risks are important as well, but they need to be displayed in narrative form. We feel presentation of PRIIPs KID should keep 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 that's why completely new models of presenting the key figures are not advisable. Customers are now familiar with UCITS KIID and we should continue using the same kind of presentation. This doesn't mean we do not need amendments to UCITS KIID. For some products, especially structured products, it might however be difficult to use a UCITS risk measure, and in these cases adaptations will be needed.

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 of the information can be displayed. The balance between right amount and level of information (not too detailed) and the possibilities for the customer to understand and compare the products is crucial. Consumer testing is very important in order to achieve results in the best way of presenting risks, costs and rewards.

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.

Please see further comments relating to unit-linked insurance products in answers relating to products offering many options.

Presenting risks in with-profit insurance products will need some adjustments in the way the risks are presented. For example, risks relating the solvency and liquidity cannot be presented in figures, but will need to be presented in narrative. Also, there should not be requirements to present similar kind of performance scenarios on with-profit insurance products as in other PRIIPs products when the profit paid is fixed according to the insurance contract.

For structured products, we suggest looking at the model created by the Structured Products in Sweden group (SPIS) under the Swedish Securities Dealers Association (SSDA) for presenting risk and calculating market risk.

The market risk for different products cannot be measured with the same method as they have different variables but the results for different types of PRIIPs could be expressed in the same scale. Access to historical data is also one important factor that could pose limitations to the use of some of the methods.



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?

We prefer a measure combining quantitative and qualitative methodologies. We feel liquidity and credit risk cannot be displayed in figures, but in narrative.

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?

We're not in favor of a probabilistic model. It results in too complicated figures and this would not facilitate customers understanding, which should be the ultimate aim of the presentation. Probabilities might give false impression of promised returns etc. Performance scenarios should show possible outcomes feasible under the PRIIPs without any implications to their likelihood.

Historical figures are the best way of presenting performance. They can be calculated for most of the products offered. We're not in favor of models based on totally artificial figures.

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

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

Setting time frames for performance scenarios need to depend on the product itself. The structure of PRIIPs products are so variable that setting same time frames for different products will not bring comparable results. Setting the time frames for performance scenarios should be left to the discretion of the product provider.

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

We feel absolute figures are a clear way of presentation, but sometimes the comparability is a challenge. Percentages are mostly clear as well, but sometimes difficult for the customer to understand. All in all, too many figures will mislead the customer.

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.

We're in favour of the scale of risks presented in UCITS KIID (1-7). The scale needs to be wide enough to present options and varieties.

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. MiFID2 regulation and the future IMD2 regulation will include provisions on presenting costs (MiFID2 article 24.4). Although concentrating on the point of sale process, these provisions are partly overlapping with PRIIPs requirements. It is important to try to avoid overlaps in the final KID as much as possible. Otherwise, the customer will receive two pieces of different kind of information at the point of sale.

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.

Overall, we feel there is a risk that the cost calculation model ends up being too detailed and too complicated. We should, at least in this first phase, aim for a clear and comparable cost model, which brings added value for the customer. This means simplification is needed and every detail cannot be displayed.

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. In addition, it is not possible to estimate the final amount of this kind of costs in the KID, as the final amount will be known only later. Estimation of too many items included in the costs would result in a too uncertain outcome. We feel it might be possible to present a narrative estimation of these items, or present these costs ex post in a yearly notification, as required in MiFID2.

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

At the moment it is difficult to estimate without further specifications whether RIY might be used as a calculation method.

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?

We refer to our answer in points 17 and 19. We should concentrate on a simple and comparable cost model, which is understandable and comparable to the customer and does not include overly prescriptive and too uncertain items of costs.

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?

A classification according to the legal type seems to be appropriate.

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

Creating new additional clarifications should be avoided. The definition of consumer types should be consistent with the interpretation of the definition of target market. Defining consumer types should not go further than defining target markets and definitions should to be left at a general level. In addition, selling rules and suitability and appropriateness requirements will be applied to PRIIPs products in MiFID2 and future IMD2. These selling rules are applied to evaluating which products suit which clients. Estimation of suitability and appropriateness will provide a more detailed estimation of consumer type but this individual client information should not be mixed with KID.

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

Consumers should be informed that, in addition to offering an investment opportunity, an insurance PRIIP provides for additional protection (against death risks, etc.) and the main characteristics of this protection. We agree that, in case of a life insurance cover, the key information should include the information on what happens if the insured person dies, as well as brief summary information on key terms and conditions of the insurance cover (e.g. where applicable, the percentage of the insurance amount paid to beneficiaries in case of death). No amounts in euros should be required as this information might create false expectations to the investors and thus be misleading.

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 UCITS funds. These other underlying investments might be shares, bonds, structured products, almost any kind of object in value. It will not be possible to provide a KIID document on all investments which might be chosen by the customer.

Too detailed information requirements might lead to restrictions in the product variety of insurance wrappers, because it is impossible to give pre-information in the wrapper KID on all kinds of combinations of different underlying investment objects. It is not possible to disclose different combinations of investor's choice beforehand, not even through specified calculation models which are not personal.

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, suitability and appropriateness 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 individual 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?

Unit-linked life insurance policies and other insurance policies with underlying investments represented 91 % of insurance premiums paid in 2014 in the Finnish market, in contrast to premiums paid in traditional life insurance policies (in life insurance assets, same figures were 81% / 19 %).

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 the wrapper product, not of the underlying investment objects. Due to the variety of different investment objects, any general or artificial information is very easily misleading for the customer. It is important to note that there are a large amount of other underlying investments than 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 and the amount of possible investment objects can be in hundreds or thousands. The wrapper should provide for links to information on the underlying investments, when possible.

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. We also have to take into account that after concluding the contract, the customer may at any time change the underlying investments in the wrapper.

We feel 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 to a requirement to disclose 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?

Provisions for review and update of UCITS KIIDs seem an appropriate base for PRIIPs KIDs. Since the KID has been designed as pre-contractual information the issuance/offering process for specific types of PRIIPs must be taken into account. Therefore for continuous PRIIPs like UCITS we agree with the measures outlined for periodic review, revision and republication of the KID where 'material' changes are found. However, for PRIIPs offered in a non-continuous manner it is not appropriate.

Regarding structured products, typically with limited subscription periods, it only makes sense to update the documents while the offer (in primary or secondary market) is active.

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?

Yes, this is a very challenging requirement. It depends largely on the way and prescriptiveness underlying investments would need to be presented in the wrapper KID. We feel it is impossible to present underlying investments in the wrapper KID, and updating this information would be even more difficult.



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 that technical standards should be aligned with MiFID2 recital 83.

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

We point out that PRIIPs Regulation art. 13.2 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 still applies. We feel it is important to safeguard the requirements for selling PRIIPs in different channels, also in distance and online for example. Possible RTS or guidance in article 13.2 should not tighten the requirements for distance selling according to the distance selling directive.

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

Yes, we're in favor of templates developed by the ESAs. These should be provided at the earliest possible, as they provide a very useful model for the product providers to create the KIIDs.