

Susan Cooper
Banking, Lending and Distribution Strategy &
Competition Department
Financial Conduct Authority
25 The North Colonnade
Canary Wharf
London E14 5HS

Via email to: cp16-18@fca.org.uk

The Investment Association

Camomile Court, 23 Camomile Street,
London, EC3A 7LL

T +44 20 7831 0898

E enquiries@theia.org

W theinvestmentassociation.org

Twitter @InvAssoc

Date: 19 September 2016

Dear Susan Cooper,

RE: FCA Consultation Paper CP16/18: Changes to disclosure rules in the FCA Handbook to reflect the direct application of PRIIPs Regulation

The Investment Association is delighted to provide input to your consultation.

The IA has always been a supporter of the objectives of the EU PRIIPs project to deliver enhanced and meaningful disclosure to retail clients across a wide array of investment products. We have, however, significant reservations as regards to the regulatory technical standards to the PRIIPs Regulation as drafted by the European Supervisory Authorities and adopted by the European Commission. The recent rejection of the draft level two by the European Parliament reflects frustration many have with the insufficiencies of the draft RTS. The rules as drafted will not deliver on the objectives to be clear, fair and non-misleading.

The proposed rules would lead to extremely flawed and misleading retail investor disclosure. We, therefore, urged the Commission to amend the presentation of costs and charges and improve the performance disclosure by adding historic performance alongside future scenarios.

While past performance is not a guide to future performance, the inability to see the historic delivery of a product is risky for consumers. Although we do not disagree with the inclusion of future performance scenarios, we do not believe these should be given in isolation. Only past performance reliably shows the investment experience and a manager's track record.

We are fully supportive of comprehensive costs and charges disclosure, but the draft prescribed presentation is based on assumptions rather than real delivery. Not only could it mislead investors by not showing what they will actually pay (as currently shown by the OCF) but it also makes the comparison of different products impossible. The loss of a standardised methodology for calculating the key product cost metrics, as is available for UCITS, and replacing them only with methodologies for projecting estimated impacts removes the reliability of the data that is essential to underpin the development of the online calculators envisaged in the level 1 PRIIPs regulation.



Having said that, the IA is in broad agreement with the proposals made in the FCA CP 16/18 "Changes to disclosure rules in the FCA Handbook to reflect the direct application of PRIIPs Regulation". Please find a couple of more detailed responses to your questions in the annexe to this letter.

We believe that keeping consistency across UCITS and NURS disclosure is important. Therefore, we agree with the proposal to provide firms with the option of producing a NURS-KII. The vast majority of IA members manufacturing NURS are making use of the option to provide NURS-KIIs to their retail clients under the current waiver.

If you have any questions on the contents of our response, please let us know.

Yours

Florian van Megen

Retail Market Specialist

ABOUT THE INVESTMENT ASSOCIATION

The Investment Association is the trade body that represents UK investment managers, whose 200 members collectively manage over £5.5 trillion on behalf of clients.

Our purpose is to ensure investment managers are in the best possible position to:

- Build people's resilience to financial adversity
- Help people achieve their financial aspirations
- Enable people to maintain a decent standard of living as they grow older
- Contribute to economic growth through the efficient allocation of capital

The money our members manage is in a wide variety of investment vehicles including authorised investment funds, pension funds and stocks & shares ISAs.

The UK is the second largest investment management centre in the world and manages 37% of European assets.

More information can be viewed on our [website](#).



ANNEX I

CONSULTATION RESPONSE



Q1: DO YOU AGREE WITH THE PROPOSAL TO DELETE OR AMEND THE KFD AND KFI DISCLOSURE REQUIREMENTS IN COBS SO THEY NO LONGER APPLY IN RELATION TO PRIIPS FOR WHICH A KID MUST BE PREPARED?

Yes- the IA believes that the intention of introducing the PRIIP KID was to streamline the number of disclosure documents available for products that are different but economical substitutes for each other.

IA members have pointed out, however, that just as the Supplementary or Additional Information Documents (SID/AID) were developed for UCITS KIIDs providers, we believe that it is likely that another document may need to be provided by manufacturers to sit alongside the PRIIP to cover disclosure requirements not covered in the PRIIP which were previously part of the KFD/KFI documents.

Q2: DO YOU AGREE WITH OUR PROPOSALS IN RELATION TO DISCLOSURES FOR NURS_s, IN PARTICULAR THE PROPOSAL TO PROVIDE FIRMS WITH THE OPTION OF PRODUCING EITHER A NURS-KII DOCUMENT OR KID AND OUR PROPOSALS ABOUT THE CONTENTS OF THE NURS-KII DOCUMENT?

We agree that the timescale for a NURS before having to produce a KID should mirror that of UCITS. We believe that keeping consistency across UCITS and NURS disclosure is important. Therefore, we agree with the proposal to provide firms with the option of producing a NURS-KII. The vast majority of IA members manufacturing NURS are making use of the option to provide NURS-KIIs to their retail clients under the current waiver. Firms that have both UCITS and NURS are unlikely to adopt the NURS KID earlier for obvious reasons – e.g. the transition is likely to take place at the same time for cost efficiency.

One firm raised concerns whether offering the choice to implement the NURS KID earlier could cause confusion and comparison issues. Platform service providers, in particular, will be affected if they need to start accommodating for the provision of providers' products using the UCITS KIID and the NURS KID simultaneously.



Q3: DO YOU AGREE WITH OUR PROPOSALS FOR RULES AND GUIDANCE CONCERNING NURSS THAT ARE MONEY-MARKET FUNDS OR FEEDER FUNDS?

Yes. In this case there doesn't appear to be any other method other than cross-referencing to other documents – it is clear the "stand alone" PRIIPs KID for many types of PRIIP will need to cross reference to many other disclosure documents.

Q4: DO YOU AGREE WITH OUR PROPOSED DISCLOSURE REQUIREMENTS IN RELATION TO NURS AND S272 SCHEMES, IN PARTICULAR THE PROPOSAL TO REMOVE THE REQUIREMENT TO PROVIDE A KFD OR SIMPLIFIED PROSPECTUS TO PROFESSIONAL CLIENTS?

Yes – professional clients should be able to ascertain their own requirements, if any, over and above what is contained in the full prospectus.

Q5: DO YOU AGREE WITH OUR PROPOSED DISCLOSURE REQUIREMENTS IN RELATION TO QISS, IN PARTICULAR THE PROPOSAL TO REMOVE THE REQUIREMENT TO PROVIDE A KFD TO PROFESSIONAL CLIENTS?

Yes – we agree that a QIS prospectus should provide sufficient information.

Q6: DO YOU AGREE WITH OUR PROPOSAL, REGARDING THE DISCLOSURE RULES RELEVANT TO AIFMS, TO REMOVE THE NEED TO PROVIDE A SIMPLIFIED PROSPECTUS OR KFD FOLLOWING INTRODUCTION OF THE KID?

Yes.



Q7: DO YOU AGREE WITH OUR PROPOSAL TO REQUIRE THAT FIRMS, IN ORDER TO COMPLY WITH THE AIFMD WHERE THE PRIIP IS AN AIF, DISCLOSE AIF INFORMATION IN EITHER A SCHEME PROSPECTUS OR IN ANOTHER DISCLOSURE DOCUMENT, THAT WILL SUPPLEMENT THE KID (OR NURS-KII DOCUMENT)?

Yes – the other disclosure document option to supplement is most practical, as the full prospectus is not easily accessible for retail clients.

Q8: DO YOU AGREE WITH OUR PROPOSED RULES AND GUIDANCE CONCERNING THE INFORMATION TO BE PROVIDED TO RETAIL CLIENTS INVESTING IN PRIIPS THAT ARE UNAUTHORISED AIFS?

Yes – this continues the theme of having to also provide supplementary information alongside the KID. The form and contents and methods firms use to supplement their KIDs for the variety of PRIIPs will vary considerably, and will also probably vary in relevance depending on the distribution channel used. An example is the current supplementary information documents used by firms to supplement the UCITS or NURS KIIDs, these documents are generally available when transacting directly with the fund provider, but when investing via a platform service provider their availability is not as evident, meaning certain disclosures are omitted via certain distribution channels such as platforms.

Q9: DO YOU AGREE WITH OUR VIEWS OF HOW THE REQUIREMENTS OF THE PRIIPS REGULATION MIGHT APPLY TO (A) THIRD-COUNTRY (NON-EEA) MANUFACTURERS AND DISTRIBUTORS AND (B) EEA MANUFACTURERS AND DISTRIBUTORS PRODUCING PRIIPS FOR, AND/OR SELLING PRIIPS TO, THIRD-COUNTRY (NON-EEA) RETAIL CLIENTS?

Yes – but there are many potential implications following the UK's vote to leave the European Union which may mean this has to be revisited in due course and following any further clarification by the EU Regulators.

Q10: DO YOU AGREE WITH OUR PROPOSAL TO INCLUDE GUIDANCE IN THE PR THAT REFERS TO THE REQUIREMENTS OF THE PRIIPS REGULATION?

Yes - we agree with your proposal to include guidance in the PR which refers to such requirements.



Q11: DO YOU AGREE WITH OUR PROPOSAL THAT FIRMS CAN PROVIDE ANY NECESSARY SOLVENCY II INFORMATION IN A KID OR IN ANOTHER DOCUMENT?

No comment.

Q12: DO YOU AGREE WITH OUR PROPOSALS TO AMEND THE DEFINITION OF 'STRUCTURED DEPOSIT', TO ALIGN WITH MIFID II, AND TO REFER IN COBS TO THE REQUIREMENTS OF THE PRIIPS REGULATION?

No comment – not applicable for most IA members.

Q13: DO YOU AGREE THAT WE SHOULD CLARIFY FIRMS HAVE THE OPTION TO PROVIDE PERSONALISED PROJECTIONS?

No comment.

Q14: DO YOU AGREE THAT FIRMS SHOULD ENSURE THEIR DISCLOSURE DOCUMENTS USE COLOURS THAT CAN BE PRINTED OR PHOTOCOPIED IN BLACK AND WHITE WITHOUT DIMINISHING COMPREHENSIBILITY?

Yes.

Q15: DO YOU HAVE ANY COMMENTS ON THE CONSEQUENTIAL AMENDMENTS PROPOSED OR THE PROPOSAL TO MODIFY THE COBS GENERAL APPLICATION RULE?

We believe that these provisions are fine.

Q16: DO YOU HAVE ANY COMMENTS ON OUR CBA?

No comment.

Q17: DO YOU HAVE ANY COMMENTS ON THE COMPATIBILITY STATEMENT?

No comment.