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RE: CP21/23: PRIIPs - Proposed scope rules and amendments to Regulatory Technical Standards

The Investment Association welcomes the opportunity to respond to the FCA's proposals to improve aspects of the PRIIP KID. We continue to support the objectives of the KID to provide investors with clear and meaningful information about the products they are about to buy. Overall, we consider that the FCA's proposals are an improvement on the existing KID, and the removal of performance scenarios is especially welcome as a step to protect investors from harm.

In our response we make some recommendations of areas that we think could improve the overall package of measures further. Prime amongst these is to allow a meaningful implementation period and more time for the consultation responses to be considered. We recommend delaying the start date by a year to 1 January 2023 and giving industry early notice of this delay.

We support the proposals in respect of performance but would have preferred to see the UCITS-style past performance graphic being included in the KID. We would not support the comingling of an illustration of the impact of costs with the communication of past performance – the impact of costs is already adequately illustrated in the Cost section of the KID.

We also express disappointment that the opportunity has not been taken to properly address the methodology for calculating transaction costs now that firms have a full three years' worth of transaction cost history. In this respect we would like to see the FCA carry out a proper review of whether slippage is working as intended rather than the proposed piecemeal approach to masking the symptoms of slippage.

We would be happy to expand on any of the points we raise in our response.

Yours sincerely,

Mark Sherwin
Senior Adviser, Financial Reporting

Response to consultation

CP21/23: PRIIPs - Proposed scope rules and amendments to Regulatory Technical Standards

About the Investment Association

The Investment Association (IA) champions UK investment management, a world-leading industry which helps millions of households save for the future while supporting businesses and economic growth in the UK and abroad. Our 250 members range from smaller, specialist UK firms to European and global investment managers with a UK base. Collectively, they manage £9.4trillion for savers and institutions, such as pension schemes and insurance companies, in the UK and beyond. 44% of this is for overseas customers. The UK asset management industry is the largest in Europe and the second largest globally.

Executive summary

The IA welcomes the opportunity to respond to the FCA's proposals to improve aspects of the PRIIP KID. We continue to support the objectives of the KID to provide investors with clear and meaningful information about the products they are about to buy. Overall, we consider that the FCA's proposals are an improvement on the existing KID. Nevertheless, there are areas where we think further improvements could have been made.

We regard the removal of the performance scenarios as an essential step to reduce the risk of consumer harm, and we support the proposed narrative explanations of the main factors likely to determine outcomes. It is disappointing not to see and comment on the results of the parallel consumer testing within the period of the consultation.

As a matter of principle, we would prefer to see past performance in the KID in the same format as currently available in the UCITS KIID in the interests of simplicity and comparability. However, we cannot support the inclusion of past performance comingled with the impact of costs in the form suggested by the FCA. The impact of costs is already adequately illustrated in the cost section of the KID.

In the interests of comparability, we would prefer a quantitative approach to incorporating other risk factors into the SRI as the proposed approach, whereby firms are required to increase the SRI where it is considered too low, introduces considerable divergence of judgements into what is otherwise an empirical metric.

We are disappointed that the FCA has not taken the opportunity to properly address the methodology for calculating transaction costs and continue to rely on findings based on just a few months of slippage data. Firms now have a full three years' worth of transaction cost history that would provide more reliable insights into whether slippage is working as intended.

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The proposed amendments in relation to bond transactions and index-tracking funds are an improvement on the existing specifications, nevertheless we see no reason why a similar approach should not be used for active funds. We are concerned that the lack of consistency in approach, coupled with the distortions due to market movements inherent in slippage, will continue to suppress engagement and trust in transaction cost disclosures.

We do not support disregarding part of the anti-dilution benefit as a means to avoiding negative transaction costs being disclosed. Negatives, although wholly counterintuitive from a consumer perspective, are a technically accurate outcome of slippage and their suppression will lead only to a disproportionate number of products disclosing zero transaction costs.

In terms of the timeline for concluding the consultation, we are concerned that the FCA has insufficient time to properly consider the feedback, finalise the rules and issue a policy statement by the end of the year. Moreover, the time available for implementation does not allow for an orderly transition to the new form of KID. We would prefer to see a more considered approach to reflecting on the consultation responses and a longer period for implementation and we recommend postponing the commencement of the new regime for twelve months until 1 January 2023.

If the FCA does extend the start date, it is essential to give an early signal to industry to avoid the need to prepare for a disorderly implementation at the end of this year.

Finally, we have highlighted a number of areas where technical improvements could be made that would enhance the benefits of the amendments proposed in this consultation.

Answers to specific questions

Proposed rules clarifying the scope of the PRIIPs regime in the UK

Proposed scope rules

Q1. Do you agree with our proposed rules to clarify the scope of the PRIIPs regime?

1.1 No IA response.

Q2. Are there remaining areas of ambiguity in the scope of the PRIIPs Regulation which would not be addressed by the proposed rules, and if so, which?

2.1 No IA response.

Proposed 'made available' guidance

Q3. Do you agree with the proposed guidance on conditions for a PRIIP to be regarded as not made available to retail investors?

3.1 Yes, we agree with the proposed guidance because it provides clarity on when it is necessary to produce a PRIIP KID.

Information on performance and overall risk

Proposal to remove performance scenarios from KIDs

Q4. Do you agree with our proposal to remove the requirement for the KID to display performance scenarios?

4.1 Yes, we regard it as essential that the performance scenarios are removed in order to avoid presenting consumers with wholly unrealistic expectations about potential investment outcomes. We commend HMT for facilitating this step, and the FCA for not attempting to substitute an alternative quantitative approach.

4.2 We note that there remains a residual reference to a moderate performance scenario in point 71 of the draft instrument. This is used as a growth rate for the reduction in yield calculations for the costs section of the KID. We regard the requirement for this scenario to be based on “reasonable and robust assumptions and methodology” to be vague and inconsistent. We would prefer a more deterministic approach with the rate to be used being specified by the FCA.

4.3 We recommend that a net growth rate of zero should be assumed for all three time periods – this would present the cost indicator as being the return needed to cover all costs if the investor were to get back the amount of their initial investment. This provides the most comparable cost presentation because it is free from the effect of different assumptions being used by different firms.

Narrative description of performance

Q5. Do you agree with our proposal to require PRIIP manufacturers to include a narrative description of performance in the KID? a) If so, should the FCA specify the factors that the narrative should cover (as applicable)?

5.1 Yes, we support the move to a narrative approach. Done well, such an approach can help consumers to understand the investment proposition to which they are signing up without the risk of setting unrealistic expectations about the outcome.

5.2 A strength of the narrative approach is that it provides a consistent set of disclosures for all types of PRIIP including those without a performance record, such as newly-launched products and structured products, without compromising on the relevance of the information provided.

5.3 On balance, we would recommend a light touch approach to additional rules or guidance in order to avoid stifling innovation. In our view, this approach will encourage a higher standard of best practice to evolve over time than a prescriptive approach that risks reducing the disclosures to a tick box exercise in which providing the minimum necessary information becomes the accepted norm.

5.4 We note the parallel consumer testing exercise and would have welcomed the opportunity to consider and comment on the results as part of our response. It is disappointing that the proposed timescale does not facilitate this and makes it even more important that the FCA takes a light touch approach to formal guidance, at least initially.

5.5 It is also important to distinguish the information that a typical retail consumer can engage with and understand, from the information required by distributors and advisers to assess the products they offer. The KID must focus on the former in order

to remain accessible to its intended audience and the latter should be the subject of other documentation. Therefore, any additional guidance should be light-touch and principles-based in order to afford latitude for firms to communicate effectively with their target audiences.

5.6 In considering point 3 of Annex 4A of the draft instrument, we find the proposals appropriate and balanced with the exception of point 3(b) – the need to identify the most relevant product comparator. Whilst there will be many products with highly relevant comparators, the terminology 'most relevant' risks driving firms to select a comparator from a range of only mildly relevant options. This has the potential to skew expectations about the factors described in point 3(a) towards expectations about a less relevant comparator, and dilute the significance of the other elements of point 3. It also risks stifling innovation in products with no natural or relevant comparators. We would recommend limiting the requirement to include a comparator to circumstances where the comparator forms a core part of the investment objective and strategy.

Past performance

Q6. Do you agree with our decision not to include past performance as part of our proposals for information on performance? a) if not, can you please explain why you think the addition of past performance in the KID alongside a narrative description of performance would be useful to consumers and their investment decision making?

6.1 Yes, we agree with not including the proposed approach for presenting past performance as set out in point 4 of Annex 4A of the draft instrument. This relates primarily to our objection to the methodology, which is an unrealistic depiction of the investment process and likely to cause confusion. As a matter of principle, however, we cannot agree that the exclusion of past performance is the right approach.

6.2 The attempt to combine performance and cost information is highly problematic and there are a number of problems with the proposed approach to presenting past performance alongside the proposed narrative - these relate to practical and operational considerations as well as the more fundamental methodological approach itself.

6.3 On this last point we are fundamentally opposed to the principle underpinning the approach set out in the indicative drafting. It would be misleading and wrong to recharacterize gross returns as being before all charges and transaction costs as disclosable under Annex VI. Such an approach would be contrary to Global Investment Performance Standards (GIPS) which define[1] pooled fund gross and net returns as follows:

- **Gross** - the return on investments reduced by any transaction costs.
- **Net** - the pooled fund gross return reduced by all fees and expenses, including investment management fees, administrative fees, and other costs.

To pursue the proposed approach would create an alternative fictitious and unachievable expression of gross return incompatible with the GIPS-compliant

[1] Global Investment Performance Standards (GIPS) for Firms 2020, p.79 and p.80

performance reporting made elsewhere by firms to their clients at the risk of diluting confidence and trust in the PRIIP KID disclosures.

6.4 In the Asset Management Market Study Final Report the FCA retracted the illustration of the impact of charges presented in Figure 1.2 of the Interim Report, and explained that: *"We recognise that in this example, by using a gross return for the funds, transaction costs should already be captured within this. Therefore we accept that by deducting transaction costs in addition to the OCF, we double counted transaction costs for active and passive funds."* Whilst we understand that Figure 1.2 was illustrative and did not contribute to the overall findings of the study, the approach set out in the indicative drafting replicates the erroneous illustration in the Interim Report.

6.5 From a practical perspective, the KID is already constrained by the three sides of A4-sized paper limit. There is a risk of compromising the quality and depth of the proposed narrative description of performance if the space currently available for performance scenarios has to accommodate both the graphical representation of past performance and the new narratives. There is also a risk that consumers will be drawn to, and give undue weighting to, a past performance graph and will fail to engage sufficiently in the narrative description of factors likely to affect their outcome. In these respects it is disappointing that the proposed timescale does not facilitate the opportunity to consider and comment on the results of the parallel consumer testing exercise.

6.6 From an operational perspective it is extremely challenging, if not impossible, to retrospectively create a ten-year gross return series. Net return is a matter of fact as it is calculated from the price record. Over recent years there has been significant evolution in the approach to the calculation and disclosure of charges and transaction costs, most significantly in 2018 with the introduction for the first time of standardised specifications of ongoing costs, previously only the preserve of the UCITS world, and the introduction of new data-heavy approaches for calculating transaction costs for PRIIPs. In respect of transaction costs, firms do not hold market data for calculating slippage on a retrospective basis, and we note that the PRIIPs RTS has excluded retrospective application both at initial application in 2018, and now as part of the FCA's consultation.

6.7 From the end-consumer perspective, including cost information in the section about risk and reward instead of in the cost section creates a more complex and less coherent document – features that are likely only to serve only to deter consumers from engaging. We are concerned about the risk that consumers will be drawn to, and give undue weighting to, a past performance graph and will fail to engage sufficiently in the narrative description of factors likely to affect their outcome. Again, in this respect, it is disappointing that the proposed timescale does not facilitate the opportunity to consider and comment on the results of the parallel consumer testing exercise.

6.8 On a point of order we do not consider that question 6 and the three paragraphs of the consultation dealing with past performance adequately represent the indicative drafting set out in point 4 of Annex 4A of the draft instrument – the consultation makes no reference to the proposal to use past performance to attempt to communicate the impact of costs. We are concerned that this might lead to stakeholders assuming that the inclusion of past performance is intended to be in accordance with the long-established UCITS approach – a simple and coherent format – and arguing in favour of including past performance on the grounds of

familiarity, without fully appreciating that the indicative drafting represents a significantly different, and more complex portrayal.

6.9 As noted at the start of this answer, we have long-supported a form of past performance presentation in the KID, and we believe this should replicate the approach in the UCITS KIID. Such an approach would ensure consistency and comparability across the two types of KIID/KID throughout the period of the UCITS exemption, and provide a simple and familiar form of factual information to investors. This presentation, based on a series of discrete one-year periods, is effective at illustrating the volatility of returns that can arise.

6.10 In this regard, the position of the industry has been fairly consistent since the advent of the UCITS KIID, which both included past performance and tested the views of consumers to justify that inclusion. Although the research[2] is now over a decade old, we have seen no evidence that invalidates its key findings which state that past performance was "*generally correctly interpreted*" and "*information that consumers expected to see*" which also led to a conclusion that "*its exclusion could reduce likelihood to engage with the document altogether*".

6.11 Notwithstanding our views regarding past performance, we recognise that the implementation timeline set out by the FCA makes the inclusion of any form of past performance unachievable.

Inappropriate risk scores

Q7. Do you agree with our proposal to require PRIIPs manufacturers to upgrade a product's SRI score where the score resulting from application of the RTS methodology seems to underestimate the level of risk?

7.1 No, we do not agree with the proposal to increase the SRI score in such circumstances. The SRI is an empirical representation of price volatility with a credit risk overlay. To require a further overlay of a subjective judgement of other risks with no standardisation or calibration will result in arbitrary results that are not consistent or comparable.

7.2 It is likely that different product manufacturers will reach different conclusions on whether an adjustment is required and, where an adjustment is judged to be required, the extent to which such an adjustment should increase the SRI. We would suggest the FCA should investigate whether standard measures of other risks can be established that can then be fed into the SRI in a consistent manner.

7.3 We do not agree with the requirement to notify the FCA when this has been done. Commercial pressure will incentivise firms not to increase the score unless it is demonstrably necessary in the light of risk factors not adequately reflected in the SRI, so it is unclear what regulatory objective is being achieved with notification.

7.4 We are concerned about the risk of investors misunderstanding risk indicators as a result of the ongoing existence of two parallel risk scores, the PRIIPs SRI and the UCITS SRRI, both laid out on a linear scale of one to seven, both purporting to be primarily a measure of price volatility, but being calculated and calibrated differently. Most UCITS would disclose a PRIIPs SRI one or two buckets below their UCITS SRRI.

[2] UCITS Disclosure Testing Research Report Prepared for the European Commission by IFF Research and YouGov, June 2009, p.13 and p.89

7.5 In 2010, together with the Association of British Insurers (ABI), we produced a research brief[3] on CESR's recommendations on the calculation of what is now the UCITS SRRI. The research looked at the boundaries between the seven risk scores and aspects of the calculations. It found significant bunching - 85% of funds had a risk score of five or six and 50% had a score of six - and went on to test alternative boundary options that avoided bunching and gave more intuitive results.

7.6 Notwithstanding the conclusion that CESR's methodology could be significantly improved, it was implemented in the form initially recommended. Although it is not possible to resolve this in the timeframe of this consultation, we would encourage the FCA to take a more in-depth look at the respective merits of the two risk indicators.

Q8. Do you agree with our proposal that PRIIPs which are issued by venture capital trusts should be assigned a summary risk indicator of at least 6?

8.1 No IA response.

Q9. Are there other PRIIPs in respect of which the FCA should specify the summary risk indicator? a) If so, please let us know which, with your reasons and any evidence you may have.

9.1 No IA response.

Disclosures of uncaptured risk

Q10. Do you agree with our proposal to increase the character limit for disclosures of uncaptured risk?

10.1 Yes, we agree with the increased character limit.

Technical amendments to transaction costs disclosure requirements

Slippage and the arrival price

Q11. Do you agree with technical amendments we are proposing to make to the PRIIPs RTS for transaction costs?

11.1 Overall we do not agree with the approach taken for transaction costs because slippage is not an appropriate measure of transaction costs for consumer disclosures.

11.2 We agree that implicit cost is an important component of transaction cost analysis and our members review slippage, or implementation shortfall, internally. However, in our view, the disclosure of these results externally without context or explanation can mislead investors. For example, when reviewing implementation shortfall internally, our members may report results with and without outliers excluded,

[3] Research brief: Note on CESR's recommendations for the calculation of a synthetic risk reward indicator, March 2010

alongside standard deviation, and with breakdowns per segment or time series of implicit cost. While this additional detail is neither suitable nor practical for disclosure to retail investors, the point is that it is difficult to compress the complex area of transaction cost analysis into one number (the portfolio transaction cost) and have it be meaningful and accurate across each product in the industry.

11.3 It is acknowledged in the consultation paper that slippage is not an accurate measure of transaction costs for each individual transaction. In order to mitigate the inaccuracies caused by the systematic capture of market movements unrelated to the trade in question, slippage relies on the assumption that these movements are random and will average out to approximately zero over a large enough number of transactions. This assumption seems reasonable in theory but does not hold in practice. Even over a period of three years, our members consistently observe that a handful of transactions distort the overall slippage figure by a substantial margin for equity funds. For example, just a single-digit number of transactions can account for over half the total transaction cost for a three-year period.

11.4 The slippage assumption is not valid because active funds often trade large quantities on volatile days or amid stock-specific events - whereby slippage is measuring market movement rather than the fund's own market impact when trading. In some cases, these idiosyncratic trades result in negative transaction costs, while at other times they contribute to higher than usual transaction costs. But these extremes do not tell the whole story which is that even seemingly normal levels of transaction costs may be significantly distorted and inaccurate as a result of a small number of outliers.

11.5 In our view a far more appropriate measure of implicit cost can be achieved simply by redefining the arrival time to coincide with the execution time. This is the principle underpinning the approach proposed by the FCA for index-tracking funds, and there is no good reason why it should not be applied to active funds as well. A revised calculation would then compare the actual execution price to the mid-market price at the time the trade is executed – this would eliminate unrelated market movements from the measurement whilst still capturing the full implicit cost of the trade in question.

11.6 The FCA gathered evidence about how well slippage is working as part of the Call for Input launched at the end of July 2018, barely more than six months after the PRIIPs Regulation came into effect. Respondents were given two months to provide feedback and, having completed further analysis, the FCA held a transaction cost seminar in mid-January 2019 to present their findings, and published their Feedback Statement at the end of February 2019. Less than a year after the PRIIPs regime first came into effect, the FCA had concluded that respondents had failed to provide credible evidence to support claims that the slippage methodology was not working as intended because they had not provided full transaction-level calculation data for three-years of transactions.

11.7 The three-year anniversary of PRIIPs passed at the end of 2020 which means, unlike at the time of the Call for Input, firms now have a full three-year history of transaction costs. This would have made 2021 the ideal time to revisit the slippage methodology and this consultation could have been the first real opportunity for the FCA to review, and take an evidenced-based decision, on the merits of slippage. Therefore, it is very disappointing that the FCA remains closed to discussing slippage.

Anti-dilution

Q12. Do you agree with our proposed amendments in relation to anti-dilution?

12.1 We agree with the proposal to disclose anti-dilution benefits in the KID but we note that this requirement has not been included in the draft instrument. We recommend that this intention should be explicitly stated in the final rules.

12.2 We strongly disagree with the proposal to disregard a portion of the anti-dilution benefit where it would lead to negative transaction costs. This implies that the benefit is somehow wrong or inappropriate. At the current time it is impossible to judge whether a negative transaction cost is the result of the anti-dilution offset or other aspects of the transaction cost calculation. Until there is confidence in the calculation of implicit costs such a judgement will remain impossible.

12.3 In our response to the FCA's CP19/10[4] we quantified the extent to which negative costs were arising, before offsetting any anti-dilution benefit, using data provided by Financial Express – there were 244 funds with negative implicit costs which made up 10% of the funds for which data was held. From the data available it was not possible to quantify the extent to which, in addition to being negative, implicit costs were positive but significantly understated. There were 102 funds where the anti-dilution offset was greater than the total transaction cost but it was not possible to identify the extent of the overlap with the 244 previously mentioned funds. Nevertheless, this data suggests that by a margin of more than 2:1, the primary problem is negative implicit costs, the underlying cause of which is slippage, and this is persist unless the core problem of slippage is addressed.

Calculation of transaction costs for debt securities

Q13. Do you agree with our proposed clarification in relation to OTC bond transactions?

13.1 Without prejudice to our broader views on slippage as set out in our answer to question 11, we agree with the intention of the clarification for OTC bond transactions. We agree that the clarification is a reasonable interpretation of the existing requirement for situations where there is no regulated market providing continuous two-way price transparency.

13.2 We are concerned that the terminology used to frame this clarification is confusing, and may have unintended consequences – where electronic bond trading is facilitated by a platform, the platform may be considered to be a trading venue. Consequently, trades executed on such trading facilities may be regarded, from a technical point of view, as not being OTC. However, these trading facilities do not provide the price transparency afforded by regulated markets, which means that as a source of pricing data, they are effectively OTC in nature. We would recommend that the FCA clarifies that OTC in this context does not inadvertently exclude bond transactions executed on a trading platform.

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[4] Publishing and disclosing costs and charges to workplace pension scheme members and amendments to COBS 19.8 – Response from The Investment Association, May 2019

Calculation of transaction costs for index-tracking funds

Q14. Do you agree with our proposed shift to a spread model in calculating costs for index-tracking funds?

14.1 Without prejudice to our broader views on slippage as set out in our answer to question 11, we agree with shifting index-tracking funds to a spread model. The proposal serves to eliminate the time delay between the order transmission time and the execution time, and therefore ensures the implicit cost calculation does not capture market movements unrelated to the transaction in question. At the same time, the use of the actual execution price ensures the actual cost of each transaction is accurately captured. This is the approach we have advocated since before the first PRIIP KIDs were produced at the start of 2018, and we still regard it as the best method for calculating implicit costs.

14.2 In our view, the FCA's proposed spread-based approach for index-tracking funds is equally applicable, and should be applied, to active funds as well. The calculation would then compare the actual execution price to the mid-market price at the time the trade is executed and would thereby eliminate unrelated market movements from the measurement whilst still capturing the full implicit cost of the trade in question. There is no evidence of the spread-based approach causing the distortions that sometimes result in negative implicit costs when using slippage.

Understanding the average price

Q15. Do you agree with our proposal to clarify how to calculate the average price of transaction costs?

15.1 No, the proposed amendment to point 7 of Annex VI does not provide any meaningful clarification. This point is already unambiguous in requiring transaction costs over three years to be expressed as an average annual amount. This average is calculated by dividing the transaction cost amount by three and the resultant monetary amount is then fed into the calculation in point 72, as required by point 66(a), to give the portfolio transaction costs ratio that is disclosed in the KID.

15.2 If any uncertainty exists it is caused by the last sentence of point 8, which specifies how to express transaction costs as a percentage of average net assets. It is this calculation that could conceivably be carried out according to either of the approaches set out in paragraph 4.23 of the consultation paper. However, this calculation is irrelevant as it is a dead end – the percentage so calculated is never used in subsequent calculations and is never disclosed in the KID. If the FCA considers clarification is needed, it is the last sentence of point 8 that should be amended, or better still, deleted.

Cost Benefit Analysis

Q16. Do you have any comments on our cost benefit analysis?

16.1 The FCA's proposed timeline makes it incredibly difficult to deliver the anticipated benefits and risks a disorderly implementation of the new technical standards. The timeline ignores the complexities of the distribution chains for each type of PRIIP – for example the reliance of IBIPs on underlying funds as their investment options requires asset managers to provide extensive PRIIPs compliant data to insurers in

order that insurers can create their KIDs. Past experience indicates that this requires asset managers to develop their systems ready to deliver two to three months before insurers need to publish their new form of KID. Distributors are required by MiFID to synthesise costs and charges disclosures, including the costs and charges incurred in the products they offer to their clients, and demand a similar delivery schedule to insurers. Funds of funds and feeder funds rely on data to be passed from their underlying holdings in order to prepare their own KID documentation. None of these dependencies can be accommodated in the FCA's timeline.

16.2 Furthermore, the timeline does not reflect realistic development lead times, especially when finite resources are already deployed on a myriad of other regulatory implementations and many firms implement freezes on systems changes during December. Well-run businesses need time to plan an orderly implementation and it is in investors' best interests that the new KID document is prepared accurately following reliable processes and is properly reviewed and tested. Typically, these processes can take six to twelve months.

16.3 A number of firms will be implementing new PRIIPs RTS for both EU and UK products. We note that there is significant common ground in the approaches taken for costs and the SRI, and a number of our members have indicated a preference for implementing both sets of RTS at the same time. This will enable them to continue to run common processes and, in particular, to avoid maintaining two sets of transaction cost calculations. EU co-legislators are currently considering the European Commission's proposals to implement amended RTS on 1 July 2022, with the Council settling on a date of 1 January 2023, and the European Parliament currently split between supporting these two dates. Whilst it remains to be seen which position prevails, it is expected that agreement will be reached during October or November. It is worth noting that these dates represent a delay of six to twelve months regarded as essential to facilitate an orderly implementation.

16.4 In respect of the timeline, we recommend that the implementation date should be delayed by twelve months to 1 January 2023 in order to facilitate an orderly transition to the new KID. Moreover, the FCA should announce the new implementation date quickly in order to give firms certainty as they plan their transitions – it will be too late to wait for a policy statement in December to confirm implementation will not be required on 1 January.

16.5 The FCA has analysed the costs and benefits on the basis of not including past performance. We would note that if the feedback to question 6 persuades the FCA to include past performance alongside the narrative explanations, the cost analysis will be entirely different. The build to create a graphical representation, to calculate the performance results and gather the necessary historical price series is significantly more complex and costly than the matters covered in the existing cost analysis. If the FCA's indicative approach set out in point 4 of Annex 4A of the draft instrument were to be followed, the cost of estimating gross returns would be prohibitive as it would become necessary to retrospectively create historical charges and transaction costs for ten years. We note that the PRIIPs RTS has excluded retrospective application of slippage both at initial application in 2018, and now as part of the FCA's consultation.

16.6 We do not agree that "*investors will benefit from more accurate information on transaction costs*" (point 50). In particular, the limit on offsetting the anti-dilution benefit makes transaction costs less accurate. Negative transaction costs are technically accurate – the problem is that they are counterintuitive and difficult to explain to retail investors. Investors would be better served by calculating transaction

costs in a way that gives results that can easily be explained and understood – this can only be achieved by replacing slippage with the spread-based approach for all transactions and not just transactions in index-tracking funds.

16.7 The derogation in Article 14(2) of the RTS is time limited by Article 18. The benefit of this derogation, which allows IBIPs to rely on the UCITS KIID of their underlying investment options for the duration of the UCITS exemption, will be lost without a change to the date in Article 18. We recommend extending this time limit to coincide with the end of the UCITS exemption at the end of 2026.

16.8 We note that there are references in the Handbook to the date specified in Article 32 of the PRIIPs Regulation where the period of the UCITS exemption is defined. Now that this date has been extended to 31 December 2026, we recommend consequential amendments to the dates in COBS 13.1.1B and COLL 4.7.1A.

16.9 We are disappointed that the FCA has not addressed the inconsistent presentation of costs between PRIIPs and MiFID. We note that the EU RTS has removed the reduction in yield calculation from the composition of costs table in order to align with MiFID and we would have liked a similar approach to have been considered in the UK.

16.10 We would also like to see the inconsistency in treatment of transaction costs arising in underlying funds addressed. It is critically important to separate ongoing charges and transaction costs because of their nature. This is reflected in the fact they are reported separately in the KID composition of costs table and excluded from the DC workplace pensions charge cap. However, we are aware of the PRIIPs RTS being interpretated so as to divert the transaction costs incurred in an underlying fund into the investing fund's ongoing costs. This means it is impossible to compare the charges made by the parties providing services to the funds because they are distorted by the underlying funds' transaction costs. It also conflicts with the approach taken in COBS 19.8 in respect of DC workplace pensions.

16.11 Currently a UCITS ongoing charges figure has to be calculated in accordance with UCITS rules – therefore it cannot include underlying funds' transaction costs. When transmitting cost data to distributors to facilitate their MiFID cost disclosures, figures produced by PRIIPs are inconsistent with those produced by UCITS. In order to align the treatments under PRIIPs with MiFID, UCITS and COBS 19.8, we recommend clarifying in the PRIIPs RTS that underlying funds' transaction costs should form a part of the investing fund's transaction costs.