EUROPEAN COMMISSION
Directorate-General for Financial Stability, Financial Services and Capital Markets Union

Director General

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Subject: Guidance on facilitating the production and distribution of information on investment funds as of 1 January 2020

Dear ~~Chairmen~~, Dear Steven, Andrea & Gabriel,

By letter dated 6 July 2018 (Ares(2018)3609845) we sent to the ESAs a request to develop guidance on facilitating the production and distribution of information on investment funds as of 1 January 2020 (hereinafter, request). Since retail investors will receive as of 1 January 2020 the PRIIPs key investor documents (hereinafter, PRIIPs KID) and the UCITS key investor information (hereinafter, UCITS KIID) as well as information according to MiFID II, or where relevant, IDD disclosure obligations, the purpose of the guidance is to ensure in the transitional period until the overall PRIIPs review a proper understanding of the information made available to retail investors, facilitate the implementation of the disclosure regimes by manufacturers and persons advising on, or selling, relevant products and foster supervisory convergence after that date.

In consideration of the deliberations in the meeting of the Joint Committee of 18 July 2018, we would like to clarify our request further.

We recognise the challenge posed by the disclosure requirements under UCITS, PRIIPs and MiFID II and, where relevant, IDD and the need to ensure consistency among them so as their combined application does not generate unnecessary burden to manufacturers and persons advising on, or selling, UCITS or relevant non-UCITS and of PRIIPs offering a range of options for investment while allowing the retail investors understand both the information in individual disclosures and the combination thereof. We are aware that there are differences in scope and methodologies regarding the risks, performances and costs calculations, but we are also convinced that there is room to articulate the UCITS KIID information with the PRIIPs KID, thus improving consistency, by relying on the existing similarities and synergies of the said disclosure regimes. In particular

- **Costs**

    - **Perspective of manufacturers of and persons advising on, or selling, UCITS or relevant non-UCITS and of PRIIPs offering a range of options for investment**

      UCITS methodology does not comprise all costs and charges of the product. On the other hand, the PRIIPs calculation methodology is designed in such a way that it includes all costs and charges incurred by a PRIIP. These costs relate to

      (i) one-off costs;
      (ii) ongoing costs, which include transaction costs incurred when trading; and
      (iii) incidental costs, such as performance fees.

      With regard to transaction costs, the PRIIPs Commission Delegated Regulation 2017/653 provides for a detailed calculation methodology which ensures that both explicit and implicit transaction costs are included. This means that PRIIPs manufacturers can provide all relevant information on product's cost components to MiFID II intermediaries. ESMA's MiFID II Questions and Answers[1] by recommending the application of the PRIIPs costs methodology, last updated on 6 June 2017, already now ensure consistency in this regard. Since in any event under MiFID II total costs have to be disclosed, its calculation would not represent an additional cost.

      In addition, in accordance with Article 13(2) of PRIIPs Commission Delegated Regulation 2017/653, PRIIPs offering a range of options for investment, such as insurance multi-option products already now use the PRIIPs cost methodology even though they are allowed to rely on the PRIIPs simplified methodology. The systematic provision of information on costs by manufacturers of UCITS or relevant non-UCITS, in accordance with the PRIIPs costs methodology, would allow manufacturers of PRIIPs offering a range of options for investment to further streamline wrapping processes as well as ease compliance by insurance distributors of insurance-based investment products, in accordance with IDD, with obligation to disclose all costs and related charges.

    - **Perspective of retail investors**

      Costs disclosure requirements under UCITS, on the one hand, and PRIIPs, MiFID and IDD, on the other hand can be seen to some extent as complementary.

[1] ESMA Questions and Answers on MiFID II and MiFIR investor protection and intermediaries

Given that entry charge in UCITS KIID is meant to show the maximum that might be taken out of retail investor's money to be invested, while PRIIPs entry costs show the yearly impact on returns at the end of the recommended holding period of the costs retail investors pay when entering the investment, the ESAs should identify the explanations to allow retail investors to appreciate the difference in the information that complements each other.

- **Performance scenarios**

  - **Perspective of manufacturers of and persons advising on, or selling, UCITS or relevant non-UCITS and of PRIIPs offering a range of options for investment**

    The UCITS framework foresees past performance disclosures whilst the PRIIPs methodology is forward looking. The application of performance disclosures would allow manufacturers of and persons advising on, or selling, UCITS or relevant non-UCITS and of PRIIPs offering a range of options for investment to leverage on both disclosures and to also help neutralise, in the transitional period until the overall PRIIPs review, the potential misinterpretation of forward looking overly optimistic performance scenarios. The reliance on both forward looking and past performance information might further strengthen trust and confidence of retail investors.

    We estimate that the implementation costs of the forward-looking methodology by manufacturers of UCITS or relevant non-UCITS will be low as they will be in a position to leverage on the calculation of the PRIIPs summary risk indicator (hereinafter, PRIIPs SRI). The ESAs in providing their guidance should identify the optimal implementation that would grant cost savings through the existing synergies.

  - **Perspective of retail investors**

    Although, admittedly, not a guarantee for the future, past performances might be a valuable piece of factual information for retail investors in their investment decisions. Therefore, the forward looking approach under PRIIPs coupled with the UCITS past performance disclosures over 10 years will allow retail investors to better understand the assumptions, based on the evidence from past, used to calculate the estimated returns. The ESAs guidance would convey the optimal way of how to explain the differences and also complementarities of past performance and forward looking disclosures.

- **Risk indicators**

  - **Perspective of manufacturers of and persons advising on, or selling, UCITS or relevant non-UCITS and of PRIIPs offering a range of options for investment**

    We acknowledge the initial decision of the ESAs to develop in draft PRIIPs RTS PRIIPs SRI, broadly built on the experience with the methodology for the calculation of the UCITS synthetic risk reward indicator (hereinafter, UCITS SRRI).

We recognise that PRIIPs SRI and UCITS SSRI might at the first sight be perceived as different in the scope and the calculation methodologies. However, on the scope, only in very specific situations, the PRIIPs SRI would also consider, next to market risk, the credit risk component. Also, on the methodologies, there is an element of continuity given that the identification of the risk class in PRIIPs and UCITS is determined by the assignment of the risk of the product to corresponding volatility bucket. The variations in the PRIIPs table showing the relation between the risk classes and the volatility buckets might lead to different risk indicators.

Given that the two methodologies are close and, also since manufacturers of UCITS or relevant non-UCITS might already have experience with PRIIPs SRI when providing such information to manufacturers of PRIIPs offering a range of options for investment, we estimate that potential additional implementation costs would be low. The ESAs in providing their guidance should identify the optimal implementation that would grant cost savings by virtue of the existing similarities.

- **Perspective of retail investors**

  The ESAs guidance would convey the optimal way of how to appreciate situations where UCITS SRRI and PRIIPs SRI lead to different risks indicators and also complementarities of the two indicators and, in particular, the relevant assumptions, i.e. that the indicators shown in the UCITS KIID and the PRIIPs KID are not real figures and that the actual risk varies in relation to the chosen methodology.

We would invite the ESAs to discuss the solutions that should strike the right balance between the retail investor protection and reductions of potential duplication of work for manufacturers and persons advising on, or selling, UCITS or relevant non-UCITS, and of PRIIPs offering a range of options for investment by identifying the similarities and interconnections between the applicable methodologies and the resulting synergies that could be achieved while at the same time ensuring the level playing field among all manufacturers and persons advising on, or selling, relevant products. If the ESAs might still find other solutions more preferable, including legislative changes, they should provide for detailed reasons that would support their position, having regard to the statements and conclusions in this letter.

Yours sincerely,

Olivier Guersent

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