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European Commission
DG on Internal Market

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Consultation by Commission Services on legislative steps for the Packaged Retail Investment Products initiative

Assogestioni is grateful for the opportunity to comment on the consultation by the European Commission on legislative steps for the Packaged Retail Investment Products initiative; we deem that this initiative could significantly impact the current set-up of retail investment products markets across the European Union thanks to the horizontal approach. In order to ensure the achievement of a level playing field among different investment products and, at the same time, the enhancement of investor protection, we support the approach chosen by the European Commission to focus on the PRIPs transparency and distribution rules.

In particular, a level playing field would allow the creation of a competitive market, which will encourage product innovation and provide investors with products better tailored to their needs. Furthermore, the strengthening of investor protection would arise from the application of a unified framework on distribution rules and from an increased comparability of substitute products subject to an equivalent disclosure regime to help retail investors to take an informed investment decision.

Please find below our general considerations on the three main areas on which the consultation is based.

1. Scope of the PRIPs regime

We support the European Commission effort to identify a definition of PRIPs able to cover under its scope all packaged retail investment products taking into account their common characteristics. Although such approach is based on PRIPs general characteristics and not on the specific peculiarities of each kind of PRIP, it would guarantee a clear distinction between them and other investment products.

An effective delimitation of the investment products falling under the PRIPs definition would also be achieved, as suggested by the European Commission, by adding to a general definition an indicative list of such products, provided it is intended as non exhaustive. Such list should include at least the products which are



more commonly distributed to retail investors and which are easily identifiable among Member States as PRIPs by virtue of their characteristics. This approach would allow to cover, on the one hand, by a general definition even new types of products which could be created in the future and, on the other hand, those products which are, at the moment, certainly to be included. As regards the indicative list of PRIPs, we wish to point out that, given the impossibility to modify it on a continuous basis if adopted at legislative level, it would be important to delegate ESMA to define such list and regularly update it in order to include new types of PRIPs arising from the product innovation process.

With specific reference to structured deposits, we support the European Commission proposal to include such investment products in the PRIPs regime. In this perspective, we believe that the definition under option 1 of the consultation paper is that which better distinguishes between simple deposits, not to be considered as PRIPs, and structured deposits, to be considered as PRIPs, given that it clearly identifies the specific characteristics of the latter.

As regards pensions, we disagree that these products should be excluded from the PRIPs regime, because the existence of different kinds of pensions requires to evaluate on a type by type basis whether they are PRIPs or not. For example, State-run pension schemes should not be considered in the scope of PRIPs definition, while personal pension products – such as individual, voluntary pension – should. Furthermore, when the annuities are offered to retail investors and are characterised by an element of capital accumulation they should fall under PRIPs definition. Similarly, variable annuities which involve capital accumulation and investment risk should be subject to the definition.

2. Legislative approach to be taken in delivering the PRIPs regime

From a general perspective, we support the European Commission intention to harmonise the pre-contractual product disclosure and the sales rules concerning PRIPs, starting from the existing European regulations on these issues; this approach ensures the achievement of the same, high, level of safeguards for retail investors who buy financial instruments or PRIPs, in terms of both the type of disclosure received by investors and the requirements adopted towards them by distributors.

In particular, we agree with the proposal to take into account, for pre-contractual product disclosures, the principles already provided for UCITS through the KIID discipline, which would represent a valid benchmark in terms of transparency, clarity and quality of information. Moreover, we support the European Commission in providing that the KIID PRIPs regulation should be articulated in general common principles, which would apply to all PRIPs, and detailed requirements, which would be contained within implementing acts and/or technical standards. Provided that all PRIPs have common characteristics and, at the same time, peculiarities which differentiate them, the European Commission approach would allow to deal with the needs to provide the same level of transparency to investors (through general principles) and to tailor it to the specificities of each kind of PRIP, respectively.



As regards the sales rules, we deem appropriate to align the latter to MiFID regulation on distribution of financial instruments, given that such solution would harmonise the rules to be complied with, including particularly rules of conduct, regardless of the type of PRIIP distributed to retail investors. In the same view, with reference to the direct placement of UCITS by management companies, we agree with the proposal to regulate such activity through specific provisions to be introduced in the UCITS directive, whose content should be equivalent to the relevant MiFID rules.

3. A new pre-contractual disclosure instrument

We deem appropriate to refer to the existing UCITS KIID as a benchmark even for non-UCITS PRIIPs, provided that the UCITS directive provisions on such issue are not modified. In fact, the rules concerning the content and format of the UCITS KIID have been drafted after a complex and long consumer testing process which have granted their compliance to the consumers needs; therefore, the general principles that will be identified for all PRIIPs KIID should be aligned to the principles already applicable to UCITS.

In the same perspective, we support the adoption of a regulation in order to discipline the content and the format of the PRIIPs KIID, given that such legislative instrument avoids the possibility to modify such aspects by single Member States, ensuring a perfect comparability between the same types of PRIIPs across European Union.

With reference to the allocation of responsibilities in respect of the production of KII, we agree with the European Commission proposal to assign such responsibility to the PRIIP manufacturer, because the latter is in the best position to acquire all the information concerning the PRIIPs characteristics, functional to the correct disclosure of them through the KIID.

Furthermore, we deem important to reiterate that, as provided in the UCITS directive (see article 80 of directive 2009/65/EC), once the manufacturer has produced the KIID, the obligation to provide it to investors before the subscription pertains to: (i) the manufacturer itself, as long as it distributes PRIIPs directly or through another natural or legal person who acts on its behalf and under its full and unconditional responsibility; (ii) the distributor, when the manufacturer does not distributes PRIIPs directly or through another natural or legal person who acts on its behalf and under its full and unconditional responsibility.

We remain at your disposal for any request of clarification or further comments on the content of our response.

The Director General