To the Joint Committee of the European Supervisory Authorities

annex to the FFI priips consultation answer

General comments on the KID presentation

We feel that in general, **the Discussion paper presents and analyses too detailed and theoretical ways of calculating and presenting risks, costs and rewards. Retail client´s possibility to grasp, understand and compare the information in the KIID is essential.** Too detailed and technical information will not fulfill the original aim of the Regulation. Originally, PRIIPs KID has not been created to present information on all possible aspects and details of the product, but on the most essential ones for the client to understand and compare the product. If going into too much detail, this original aim might be lost.

The calculation models should be set at a level which is fulfilled with reasonable efforts by the product manufacturers as well. Too detailed requirements will end up raising the costs of the products, as the collection, analysis and updating of different pieces of information will bring up the administrative costs and, at the same time, do not bring the added value to the client.

As the conduct of business requirements in selling the PRIIPs products will be significantly higher due to MIFID2 and IDD rules, very detailed assumptions and calculations behind the PRIIPs KID will present high challenges for the selling staff to understand and explain the reasoning behind the KID figures for the client. This will in turn increase the risks for the manufacturers and distributors regarding the selling process.

Implementation timeline

**We strongly advocate for delaying the implementation of PRIIPs regulation.** The awareness of the level of detail of level 2 has only now been seen, as the Joint Committee has published the draft RTSs in this consultation. This detail and amount of work for implementation were not yet known when the timeline for the Regulation to enter into force was set at level 1.

The product manufacturers should be left with sufficient time to implement the detailed level 2 and 3 rules into their it-structures, governance processes, staff training and publishing of KID documents. Especially in the field of it-processes, detailed and technical finalizing work will not be possible without exact information on the details of level 2 and 3 rules. **The Regulatory technical standards will only be adopted in autumn 2016, or even later, and this timetable will not simply be enough for the implementation work in the financial institutions.**

In addition, the Regulation has linkages with MiFID2 and IDD, which both will most probably come into effect in the beginning of the year 2018. These directives provide for the general framework of selling and conduct of business rules for the PRIIPs products. They also contain detailed rules on complex products, target market, calculation of transaction costs etc. which will all be used in the framework of PRIIPs regulation. In addition, the ESAs will most probably issue more Guidelines at PRIIPs level 3. This will take time and the product manufacturers will need time to implement the regime in full. This is needed especially due to the extensive it-work needed in order to be able to gather and process the information needed for the KID.

Therefore, the Regulation should be implemented from the start of the year 2018.

Scope

**We would like to point out to the difficulties relating to bringing certain OTC derivatives to the scope of PRIIPs, if they´re used in hedging purposes**. These products are sold mainly to SME clients which are not the main client target group of the PRIIPs regulation. The clients are mainly other than traditional retail clients. In our view it is not appropriate nor comparable to provide KID information on these kind of products. These products do not offer investment purpose but hedging purpose. As retail investors commonly use derivatives to hedge other activity, the current scope could lead to misleading or factually incorrect KIDs.

OTC derivatives are made to measure products created or adjusted for the customer in each individual case. They do not exchange amounts repayable, but are subject to a payment of a premium. As these products do not offer investment purpose and are not subject to fluctuation, they do not fulfill the criteria of a PRIIPs product defined in the Regulation. Thus, derivatives that do not offer an investment opportunity but only have a hedging purpose should be out of scope of PRIIPs.

Derivatives and their usage in hedging scenarios is considered to be a vital component in ensuring safe and responsible growth in the real economy. Derivatives are used by retail investors to regulate their cash flows and to hedge against market turbulence in rates or foreign exchange exposures. Such a situation would be that a small or midsize business (SME) may use derivatives to hedge for example forex flows in particular when doing cross border business or the interest rate component of their loans.

It would be impossible to fit most derivatives within the architecture proposed for the RTS. In particular, pure hedging products (for example those which involve the relevant individual selling puts or calls, or going short of a notional position) cannot be fitted into the proposed framework easily, or in some cases at all, without generating misleading information.

In addition, costs associated with the administration of operating such a business to help SMEs hedge risk must be managed, which may require banks to rethink this business. European SMEs will no longer have the same access to necessary hedging derivatives when managing risks such as interest rate mismatches, foreign exchange risk, credit risk, commodity risk or emissions allowance risk. Leaving SMEs with access to a limited range of standardised derivatives, which creates a situation where SMEs either have to take on a larger hedging position than required, i.e. a speculative position in the derivative for the surplus, or become limited to an insufficient hedging position leaving for instance a residual commercial risk when running cross-border operations.

Multi-option products

**Another area where we find major challenges in creating an informative, accurate and comparable KID is unit linked life 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. 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, investment baskets, almost any kind of object in value. For example, one larger Finnish manufacturer offers products with almost 100 different underlying investment options. In addition, these options vary depending on the client type and target market and on the time when the product is sold. Another example is asset management taken care under the insurance wrapper. The client chooses both the asset manager and the underlying investments under the insurance wrapper. This multitude of service providers and investment products multiplies the options underlying the insurance wrapper.

It is very clear that it will not be possible to provide a precontractual KIID document on a unit-linked insurance product that would include all investment possibilities which might be chosen by the customer. Also, we feel too detailed disclosure requirements, as suggested in draft article 15.2 goes well beyond the original meaning and mandate in article 6.3 in PRIIPs level 1 Regulation. As suggested in article 15.2, the manufacturer would be obliged to produce information which is dynamic and personalized according to the choices made by the client. This is not meaning of article 6.3 PRIIPs Regulation which obliges to disclose generic information on underlying investments.

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 assumptions would lead to a requirement to disclose misleading information to the customer.

We would suggest to delete the article 15.2 and draft the disclosure obligation in a way that leaves more room for possibilities to produce information for the client on underlying investments, in a more generic way.

It seems also that draft article 15.2 imposes an obligation **to produce more detailed information on risks and performance scenarios for UCITS products than what is required at the moment in UCITS KIID.** This would mean providing the client a UCITS KIID would not be sufficient to fulfill the requirements when selling UCITS funds under the insurance wrapper. However, if the client buys UCITS funds directly, UCITS KIID would be sufficient. This would mean the client receives different information on UCITS funds depending on what kind of a contract he/she concludes. This would be against the original aim of the whole PRIIPs Regulation and would also impose a disproportionate burden on PRIIPs or fund manufacturers. When selling UCITS funds under an insurance wrapper, the information contained in UCITS KIID should suffice, as it has been working well for several years now and considered as a success in disclosing information on fund products.

Periodical review:

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.** The word material should be added as a criteria, in order to scale out updating for minor amendments This is the wording used for UCITS KIID revision as well. Reference in the draft recital 19 on informing the clients about revision with the help of mailing lists or email alerts should be deleted, as this is not practically possible.

We are in favor of the proposed wording in draft article 20 regarding products made available on a non-continuous manner.