



JOINT COMMITTEE OF THE EUROPEAN
SUPERVISORY AUTHORITIES

Mr Olivier Guersent
Director General
European Commission
Directorate General for Financial Stability,
Financial Services and Capital Markets Union
per email: Olivier.Guersent@ec.europa.eu

30 July 2019
JC 2019 55

Subject: Response to letter of 19 July on exclusion of some performance scenarios options in the PRIIPs consumer testing

Dear Mr Guersent,

We are pleased that the preparation of the consumer testing is progressing and we will continue to support actively this important exercise.

At the same time, we would like to respond to you regarding the options that you do not intend to include in the testing. We are not convinced by the explanations that you have provided and consider it important to react on a number of these points.

First, we view the limitation of the scope of the exercise as a significant missed opportunity given the ongoing criticism of the PRIIPs regime by both consumers and industry, which can weaken our ability to take informed policy decisions to ensure that investors receive meaningful information. This includes, for example, the extent to which aspects of the excluded options could – if developed further – aid consumers in understanding and comparing between different PRIIPs.

We believe consumer testing can bring the best insights if a wide range of different approaches and options are first put on the table. Starting the process with a legal view on the viability of options is we think the wrong way to start - first we should aim to obtain consumers' views.

In addition, we do not share the view that some of the testing options are not practically feasible. Given that the task to develop regulatory technical standards was delegated to the ESAs based on their technical expertise and practical experience in these areas, it is critical to take into account the views expressed from our technical experts.

In relation to Option 4 for the structured product, we disagree with the assessment that this option should not be included because it overlaps with Option 3. While the information is included as well in Option 3, the aim of Option 4 is specifically to assess the effectiveness of showing only one set of performance information. Such an approach will be taken for other options that will be part of the testing. It is an important question whether showing different kinds of information about performance will overall discourage consumer engagement and comprehension – and if so, it is also important to know which parts of the performance information are most critical for the consumer.

In addition, the discussions on developing the methodologies that would underlie the different performance scenario presentations are still ongoing. Therefore, we think it is premature to reject this option at this stage on the basis that it is unclear who would define “what if” scenarios, and again not consistent with the approach taken for other options that will be tested. We would not accept that there are no technical solutions to harmonising or supervising the selection of such scenarios in practice.

In relation to Option 6 for IBIPs, we disagree that it does not give the right information and that it is not transparent to show an average past performance at different time periods rather than annually. For shorter-term liquid PRIIPs, we are aware that communicating volatility can be most relevant. However, for longer-term products, for instance those that are substitutable for retirement savings, the evidence is that investors do not respond to volatility and interim losses in a way that is in their best interests. This is the well-known issue of poor market timing by consumers, and this has long been a specific challenge in the context of retirement savings vehicles, where short term volatility can lead to investors stopping their contributions prematurely or worse¹. Longer term PRIIPs are a significant part of the IBIP market, for example within the sample of PRIIPs used for EIOPA’s 2018 report on costs and past performance, the average recommended holding period was 20 years or more in five Member States. In addition, as you aware, in the current market environment and context of the Capital Markets Union, there is a greater focus on long-term sustainable investment products and on policies to mitigate short-termism.

In relation to Option 5 for IBIPs, we recognise it will be important to further streamline options before finalising proposals for the RTS. However, we believe this can be done better on the basis of the results from the consumer testing, rather than pre-emptively.

Given we continue to regard these as relevant options, we are considering whether to include them in our upcoming consultation paper, even if they are not part of the consumer testing, in order to receive feedback from external stakeholders including consumer associations and their representatives. As we stated earlier this year, while we are strongly focusing our work on changes to the Delegated Regulation 2017/653, we may also provide advice regarding the Level 1 Regulation. This would be on the basis of our Boards judging that, in line with our mandates and based on experiences to date, requirements of the Level 1 Regulation contain impediments to achieving a KID that meets the intended objectives.

If you or your colleagues have any queries, please do not hesitate to contact us and our respective colleagues.

Yours sincerely,



Gabriel Bernardino
Chair, EIOPA
Chair of the JC of the ESAs



José Manuel Campa
Chair, EBA



Steven Maijoor
Chair, ESMA

cc. Ugo Bassi, Sven Gentner, Ulf Linder

¹ See for example the report by Nest (National Employment Savings Trust) on “Understanding reactions to loss and volatility: a report of research carried out by an Opinion Leader” (September 2010).