Tim Shakesby
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BY EMAIL ONLY

28th November 2016

Dear Tim,

We have reviewed the letter from the Commission to the Joint ESAs and are disturbed to find that Articles 10(a) and 14 remain, although amended. We believe that the ESAs need to reflect upon the wording of Article 10.1 second Paragraph of their respective founding Regulations – "Regulatory technical standards shall be technical, **shall not imply strategic decisions or policy choices** and their content shall be **delimited by the legislative acts** on which they are based".

It is explicitly clear that Article 14 fails to adhere to these legislative limitations upon the Regulators powers by interpreting and expanding upon the wording of Article 6.3 level 1 text by not drawing up the RTS in line with the limitation imposed by Article 6.3 upon the KID requirements of Article 8. Further, the only logical inter-relationship between Articles 6.3 and 8.3 is for the MOP KID to show ONLY the MOP costs and to then **sign post** to relevant underlying investment.

Despite the clear failure of the RTS to satisfy the limits imposed by the founding Articles we would have various other reasons for considering the RTS to be deficient and failing to provide comparability:

i – UCITs and non UCIT funds – As worded very many underlying assets available within MOPs such as bonds, structured products and so on, are not within this limited "saver" definition; and indeed, may not in fact be a PRIP, for example, an ordinary share. This will place additional costs on MOP manufacturers in accessing data and drawing up information for the KID, placing an increased prudential burden on these entities. This fact is recognised in Point 53 of Annex VI final draft RTS.

ii -The wording utilised states that the MOP would "use" the UCIT KIID. This loose language is unhelpful given that it is the person advising on the sale of the PRIIP who has the obligation to provide the document. As worded the MOP manufacturer would seem to have legal liability for the "use" of the KIID as if it had created it and so be subject to administrative sanctions and civil liability for its content. While it infers that signposting as provided by Article 6.3 level 1 text is ignored, the interaction with Article 13 level 1 text means that sign posting is the only logical and practical outcome and so needs to be explicitly stated.

iii - The limited saver would have further limited effect and lack of consistency given that it may only apply when all of the underlying investment options for the MOP are UCITs or "non UCIT funds" which have a KIID, as implied by the word 'only'. (This depends upon recognition or lack of

such recognition by individual MS. The potential difficulties and costs to manufacturers and confusion to consumers for the cross-border market are all too obvious.)

iv – Presentation of costs derogation in Article 13 and proposed new paragraph 2. It is stated that for costs over time and composition of costs the presentation of costs shall refer to charges for the UCIT KIID presentation. But those costs are on a percentage basis not a RIY basis and so are not compatible with the template and will not be within the knowledge of the MOP provider.

v – Following from iii above an MS may accept say a UK investment trust fund but the disclosure would only be in the English language so that in turn could cause problems. In addition, the NCA of a cross border insurer may permit such an asset but the NCA in another host state in which it wishes to offer its MOP product may not have recognised such an asset as permitted under its home state rules. These do not apply to the cross border insurer so yet further potential difficulties and disadvantages in the Single Market for insurers; distributors and their clients.

vi – The revised proposals in respect of biometric risk premium will continue to lead to consumer confusion and a lack of a true comparison in respect of the investment costs of different products. No part of the insurance biometric risk premium should be presented in the investment cost section of the KID, given that the premium is providing an additional insurance coverage. To enable consumers' meaningful comparison, the biometric risk premium for the insurance cover should only be presented in the "what is this product?" section and not in the performance scenarios nor in the costs section of the KID. This would also ensure compliance with the Level 1 text.

We also question how an average risk premium can be enabled for a regular premium policy, given that the KID is a non-personalised, pre-contractual document.

vii – The proposed premium figures of €10,000 single and €1,000 are unrealistic for our Members products. Insurers should be permitted to use the minimum premium for the particular product and any fixed fee and not an arbitrary and unrealistically low figure resulting in a more expensive appearance to further confuse consumers.

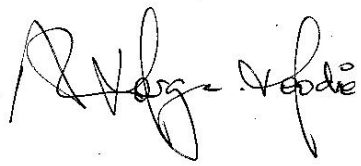
We intend to write to you with other comments and suggestions for amendments on some technical aspects including Annex 7 and the incompatibility between PRIIPs and UCITs disclosure requirements. We would also mention that should the PEPPs initiative take off then unquestionably products will be of the MOPs nature so all the more reason to ensure disclosures which are straight forward to implement by providers and result in understandable outcomes for consumers.

As always we remain available to assist in any way we can.

Kind regards

Alan Morgan-Moodie
Chief Executive Officer

John Beaney
Legal & Regulatory Executive



CC :
Gabriel Bernardino Chairman EIOPA