

To: Joint Retail Investment Products TF, Joint Information Requirements TF, Distribution TF, Single Market Committee, Life Committee, Public Affairs Group
From: Single Market & Social Affairs department
Date: 8 November 2012
Reference: SMC-PRIP-12-036
Subject: ECON first exchange of views on PRIPs

Summary

The European Parliament's Economic and Monetary Affairs Committee (ECON) held its first exchange of views on the PRIPs regulation on 6 November. The discussion focused on scope, the KID's presentation of risks, alignment of the PRIPs and UCITs regime, product regulation and the inclusion of tax information.

Background

1. Exchange of views: main issues raised

As per the introduction of rapporteur Pervenche Berès MEP (S&D, France), the following key issues were addressed:

- **Scope:** different views were raised regarding the PRIPs regulation's scope, mostly to widen the scope to contain more products, including **traditional life insurance products** (supported by Pervenche Berès MEP and Sirpa Pietikäinen MEP - EPP, FI), bonds and certain banking products (including deposits). Syed Kamall MEP (ECR, UK) however indicated widening the scope of PRIPs beyond packaged products should be considered carefully as packaged products may not be comparable to other investment products. In addition, while consumers should be informed deposited money is invested by their bank, the PRIPs KID may not be the appropriate instrument to do so. Sharon Bowles MEP (ALDE, UK) indicated information documents covering non-PRIPs products, should be joined up with the KID otherwise contradictions may exist between different information documents.

In view of the apparent willingness to widen the scope of PRIPs, it is vital for Insurance Europe to have strong arguments showing the difference between a traditional life insurance product and a packaged investment product. As discussed during distribution taskforce meetings, it seems unlikely the argument that "the KID in its current form cannot be applied at insurance product level" will be accepted.

The EC approach to **pension products** was generally endorsed; only Sirpa Pietikäinen MEP queried whether PRIPs should not apply to statutory pensions in case the consumer decides on how and when to invest. There may thus be a possibility for Insurance Europe to develop its argument that a key information document for pensions requires a pension-focused approach.

- **Risk indicator:** MEPs generally agreed the KID risk indicator should not only focus on past-performance as it may be misleading, ie a product that was profitable in the past may not be in the future. In addition, as mentioned by Sirpa Pietikäinen MEP and supported by Sharon Bowles MEP and



Philippe Lamberts MEP (Greens, BE), a product's profitability is also affected by non-market factors such as cost structure, liquidity and counterparty risks. Risk should therefore be presented using future scenarios incorporating all elements affecting the return on investment.

Insurance Europe did not address the presentation of risk in its key messages. However, Insurance Europe indicated during the EC consultation that developing a common risk indicator is very difficult and suggested in its Key Information Checklist (KIC) to use a narrative describing risks, risk mitigating elements and guarantees. Insurance Europe may need to develop this in light of further discussions and potential amendments.

- **PRIPs and UCITS:** MEPs agreed the PRIPs and UCITS regime should be aligned. In this context the UCITS' exemption duration was questioned by Pervenche Bères MEP who also agreed to look into the alignment of the PRIPs and UCITS **liability regime** as suggested by Syed Kamall MEP. Syed Kamall MEP pointed out that the KID has to be concise but at the same time accurate, fair and not misleading which is a challenge for the financial industry. In this respect he mentioned the KID cannot serve as the only document on the basis of which an investor takes an investment decision given it is a standardised concise document. This should be reflected in the liability regime and the KID should include a reference indicating where the consumer can find more information.

The alignment with the UCITS regime, especially on liability, is fully in accordance with Insurance Europe's position. A recognition that investors cannot solely base their decision on the KID and further information is required, is also supported by Insurance Europe's key messages.

- **Product regulation:** some MEPs addressed the issue of product regulation. Sharon Bowles MEP queried whether a product should be sold to a retail investor if it is impossible to explain the product in an easily understandable format. Philippe Lamberts MEP went further requiring *ex ante* product approval by eg ESMA and the PRIPs regulation should cover product design. Pervenche Berès MEP's final remarks included product regulation and the accompanying supervisors' powers as an element for further discussion.

Insurance Europe has so far not addressed this point but may need to consider developing arguments given there seems to be a willingness to address product regulation.

- **Tax information:** a key decisional factor for retail investors is tax implications so tax information should be included in the KID. This was supported by Sharon Bowles MEP. Pervenche Berès MEP foresees the Council and EC will oppose the inclusion of tax information.

Insurance Europe understands from distribution taskforce discussions many national KIDs include tax information.

2. Exchange of views: other issues addressed

- a discussion is needed on how the PRIPs regulation will apply to non-EU products (Pervenche Berès MEP)
- the KID needs to clearly indicate the nature of the investment (Pervenche Berès MEP and Philippe Lamberts MEP)
- there should be an alignment with MiFID and IMD, eg MiFID requires the disclosure of all fees in a standardised format to allow comparability across products (Kay Swinburne MEP – ECR UK)
- the KID should only be updated if a material change occurs to avoid overloading consumers with information (Sharon Bowles MEP)
- the KID should include a box ticked by the consumer to formally indicate he has read and understood the KID (Philippe Lamberts MEP)



- products with an undetermined maturity should indicate an estimate for early or late maturity (Philippe Lamberts MEP)
- the out of court redress procedure should be binding (Philippe Lamberts MEP) although Syed Kamall MEP indicated it should be aligned with the Alternative Dispute Resolution directive currently under discussion in trilogues.
- total costs should be disclosed in euro (Philippe Lamberts MEP)
- sanctions should be included in the PRIPs proposal (Philippe Lamberts MEP)
- product performance should be presented as a best and worst case scenario relative to the safest investment product of comparable maturity and with the same currency (Philippe Lamberts MEP)
- past performance should be shown in a graph to be readily understandable (Philippe Lamberts MEP)
- the KID should indicate the authority supervising the product manufacturer and seller (Kay Swinburne MEP)
- full transparency with regard to commissions will need to be discussed (Kay Swinburne MEP and Pervenche Berès MEP)

The issue of tailoring the KID to eg insurance products and delegated acts was not raised. During the debate some MEPs (eg Sharon Bowles MEP) stressed the need to avoid overloading consumers with information because the more information a consumer receives, the less likely it will be read. Insurance Europe may therefore find support for its arguments regarding the interaction with pre-contractual Solvency II requirements.

Next steps:

The secretariat is currently arranging meetings with key MEPs and the Council to convey its messages on PRIPs and working on amendments to the PRIPs regulation (see SMC-PRIP-12-033).

Depending on how the European Parliament's discussions continue, Insurance Europe may need to develop arguments on risk indicators and especially product regulation.

The ECON timetable remains:

- | | |
|----------------------------|------------------|
| ■ draft report | 28 November 2012 |
| ■ amendments deadline | 10 December 2012 |
| ■ discussion on amendments | 21 January 2013 |
| ■ ECON vote | 20 March 2012 |
| ■ Plenary vote | 16 April 2013 |