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Dear Susan,

AFM Response to Consultation Paper CP16/18, *Changes to disclosure rules to reflect PRIIPs*

1. I am writing in response to this consultation paper, on behalf of the Association of Financial Mutuals. The objectives we seek from our response are to:
 - Comment on FCA's implementation proposals for KIDs, and
 - Highlight a potential anomaly relating to certain Holloway contracts.
2. The Association of Financial Mutuals (AFM) represents insurance and healthcare providers that are owned by their customers, or which are established to serve a defined community (on a not for profit basis). Between them, mutual insurers manage the savings, pensions, protection and healthcare needs of over 30 million people in the UK and Ireland, collect annual premium income of £16.4 billion, and employ nearly 30,000 staff¹.
3. The nature of their ownership and the consequently lower prices, higher returns or better service that typically results, make mutuals accessible and attractive to consumers, and have been recognised by Parliament as worthy of continued support and promotion. In particular, FCA and PRA are required to analyse whether new rules impose any significantly different consequences for mutual businesses².

¹ ICMIF, <http://www.icmif.org/global-mutual-market-share-2013>

² Financial Services Act 2012, section 138 K: <http://www.legislation.gov.uk/ukpga/2012/21/section/24/enacted>

4. In addition, the Bank of England and Financial Services Act 2016 now provides an additional Diversity clause for FISMA, to require the PRA and FCA to take account of corporate diversity and the mutual business model in all aspects of their work, via an amendment to the regulatory principles³. This is an additional requirement for regulators that came into place after the original consultation, and might have warranted more thorough consideration in this consultation.
5. The array of terms and definitions referred to in the consultation and in the FCA handbooks do much to make the case for a more uniform approach. Unfortunately, with different deadlines for implementation, and with products moving in and out of scope, the reality will be that the set of acronyms has grown ever more. Ironically for a consultation focused on the improved layout and greater clarity of disclosure documentation- a challenge which the FSA first sought to address in 2003 (CP170)- the consultation is jargon-heavy and unstructured. For example, a tabular presentation of the changes and handbook sources would have facilitated a common understanding.
6. That said, the test of the effectiveness of the Regulations will be in consumers' responses to the usability and comparability of the KID and similar documents. Unfortunately, FCA assessment is that "we do not consider that the impact of these proposals on consumers is likely to result in significant benefits or costs". This might explain the somewhat languid approach taken by FCA to implementing the Regulations, such as the time taken to produce this consultation, given very short timescales for firms to produce new documentation.
7. The consultation does not raise specific questions about the scope of PRIIPs. However, we consider there has been some interpretation by FCA, and that the product list should have formed part of the specific issues consulted on. To illustrate, we wrote to FCA on various occasions about the extent and scope of the approach, given the short timescales; in our correspondence of 3 August we raised the specific subject of Holloway contracts.
8. The list of products caught by PRIIPs in paragraph 2.8 of the consultation includes Holloway sickness policies. This does not differentiate those Holloway contracts with special dispensation under the 'Holloway policy special application conditions'. Indeed, the proposed amendment to that term in the glossary appears to reinforce that all Holloway contracts are subject to PRIIPs. Holloway contracts-particular those with low 'investment' content have been recognised

³ <http://www.legislation.gov.uk/ukpga/2016/14/section/20/enacted>

previously by FSA/ FCA as not requiring inclusion in the Retail Distribution Review. It would be useful if FCA could clarify whether including them in its PRIIPs scope was intentional, and what therefore the justification is. Whilst most firms will have done some preparatory work previously, these Holloway providers will not have expected to comply, and will therefore have more preparatory work to undertake and less time to do it in.

9. More generally, in our assessment, firms are considering how they can effectively position the KID alongside their existing marketing material. Most have concluded that it is best to provide it as an additional document alongside existing information, as the FCA rules allow the retention of the KFD. This therefore means explaining why there are differences between the generic cost data in the KID compared to existing charges information, as well as any gaps and differences in approach. For example, many AFM members continue to issue Tax Exempt Savings Plans (TESPs), which are capped at £25 per month instalments, but which will be required to provide a cost illustration in the KID for a higher, and therefore meaningless, amount. The KID in addition does not carry forward the information on taxation and policy qualifying rules that are required in the KFDs for TESPs and similar products. This is far from ideal, and opens the risks that at a point in the future the Financial Ombudsman censures a firm for not providing sufficient information at the time of purchase.
10. FCA will be aware that there is increasing speculation that the implementation of the KID may be deferred for a year, given the rejection by the European Parliament of some of the technical requirements, and the impossibility of the deadlines. We encourage FCA to take this opportunity, particularly with the possibility that Brexit negotiations may render PRIIPs less relevant to the UK market.
11. We provide specific responses to selected questions on the following pages, and would be pleased to discuss further any of the issues raised by our response.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'AB' followed by a long horizontal line that ends in a small hook.

Chief Executive
Association of Financial Mutuals

Responses to selected questions in the consultation

Q1: Do you agree with the proposal to delete or amend the KFD and KFI disclosure requirements in COBS so they no longer apply in relation to PRIIPs for which a KID must be prepared?

We agree the current disclosure requirements should be deleted for PRIIPs.

Q2: Do you agree with our proposals in relation to disclosures for NURSSs, in particular the proposal to provide firms with the option of producing either a NURS-KII document or KID and our proposals about the contents of the NURS-KII document?

Q3: Do you agree with our proposals for rules and guidance concerning NURSSs that are money-market funds or feeder funds?

Q4: Do you agree with our proposed disclosure requirements in relation to NURS and s272 schemes, in particular the proposal to remove the requirement to provide a KFD or simplified prospectus to professional clients?

Q5: Do you agree with our proposed disclosure requirements in relation to QISs, in particular the proposal to remove the requirement to provide a KFD to professional clients?

Q6: Do you agree with our proposal, regarding the disclosure rules relevant to AIFMs, to remove the need to provide a simplified prospectus or KFD following introduction of the KID?

Q7: Do you agree with our proposal to require that firms, in order to comply with the AIFMD where the PRIIP is an AIF, disclose AIF information in either a scheme prospectus or in another disclosure document, that will supplement the KID (or NURS-KII document)?

Q8: Do you agree with our proposed rules and guidance concerning the information to be provided to retail clients investing in PRIIPs that are unauthorised AIFs?

Q9: Do you agree with our views of how the requirements of the PRIIPs Regulation might apply to (a) third-country (non-EEA) manufacturers and distributors and (b) EEA manufacturers and distributors producing PRIIPs for, and/or selling PRIIPs to, third-country (non-EEA) retail clients?

Q10: Do you agree with our proposal to include guidance in the PR that refers to the requirements of the PRIIPs Regulation?

Q11: Do you agree with our proposal that firms can provide any necessary Solvency II information in a KID or in another document?

We agree.

Q12: Do you agree with our proposals to amend the definition of 'structured deposit', to align with MiFID II, and to refer in BCOBS to the requirements of the PRIIPs Regulation?

Q13: Do you agree that we should clarify firms have the option to provide personalised projections?

The requirement to provide a personalised projection has been an important element of UK regulation for many years. Where that provides value to the consumer then it will be helpful to provide the option, and therefore to permit it in the rules. As the PRIIPs based performance scenario is intended to be prepared in place of a personalised projection, it is important the latter is not mandated. As the performance scenario presents a new calculation in most cases, the costs will usefully be offset by not producing a personalised projection.

Q14: Do you agree that firms should ensure their disclosure documents use colours that can be printed or photocopied in black and white without diminishing comprehensibility?

We agree.

Q15: Do you have any comments on the consequential amendments proposed or the proposal to modify the COBS general application rule?

Q16: Do you have any comments on our CBA?

The CBA does not consider the additional work that is needed to construct a KID compared to a KFD. This includes the extra production work and the additional actuarial resource that might be required. The CBA does not also consider that an implementation existing stocks of KFD materials will not be useable: some small mutuals may have 12 months plus stock of materials to replace, and this therefore produces a new cost to the organisation.

Many of these costs result from the very short timescales for implementation, which means more existing stock has to be replaced, and where the changes create an artificial peak in the demand for outsourced services, including actuarial.

Q17: Do you have any comments on the compatibility statement?

With regard to mutual organisations, we accept that it is FCA's intent that there is no significantly different impact. However, as we describe earlier, by including in the scope of PRIIPs those Holloway products for whom FSA provided an early concession, due to the low level of investment content, then the compliance burden is greater for these products than for those that are already subject to the requirements of the Retail Distribution Review. It also means they are at a further competitive disadvantage compared to comparable products that are regulated under INSPRU.

As these Holloway contracts can only be purchased from a friendly society, it follows that there is a significantly different burden for (some) mutuals, and that therefore the statement is either misleading, or that the authors had not considered the market fully.