



Retail Disclosure Consultation
Financial Services
HM Treasury
1 Horse Guards Road
SW1A 2HQ

2 March 2023

AFM Response to HMT consultation: PRIIPs and UK Retail Disclosure

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 the proposals, and their consequences for members of AFM and their customers.

About AFM and its members

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 32 million people in the UK and Ireland, collect annual premium income of over £22 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 and to take account of corporate diversity³.

¹ ICMIF and AFM, 2022: <https://financialmutuals.org/wp-content/uploads/2022/10/UK-Market-Insights-2022.pdf>

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

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

AFM comments on the proposals

4. We welcome this consultation and HM Treasury's decision to prioritise the revocation and replacement of the PRIIPs regime for the UK market. This recognises the widely held view that the PRIIPs regime is not working effectively in the UK, and that it does not meet the needs of consumers for clear and accessible information. The current regime also imposes an operational burden on firms that is disproportionate to the limited benefits to consumers.
5. We note that this consultation sets out the high-level guiding principles for the proposed new UK regime for retail disclosure (paragraph 3.1 and Q2) and that, as indicated in paragraphs 3.9 and 3.10, the detailed regulatory requirements of the regime will be set by the FCA. The detailed regulations for the implementation of the new regime, including the expectations of, and requirements on, firms will determine how practical the new regime is, and whether it has the confidence of both consumers and firms. We assume that the regime will be developed through the FCA's usual regulatory policymaking processes, and so will be subject to appropriate scrutiny and consultation and we look forward to contributing to that process.
6. FCA's 2017 asset management market study found that "under 3% of retail investors read regulated pre-contractual fund disclosure documents"⁴. Effective disclosure is only part of the solution to this though: availability of advice to all consumers, not just the wealthy, is critical, and so is effective financial education. We would like to see FCA adopt relevant KPIs to address each of these issues.
7. We have responded below to the specific questions raised in the consultation, and would welcome the opportunity to discuss further the issues raised by our response. We are happy to be included in the published list of respondents.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'MS' followed by a stylized flourish.

Martin Shaw
Chief Executive
Association of Financial Mutuals

⁴ <https://www.fca.org.uk/publication/discussion/dp22-6.pdf>, paragraph 1.3

AFM responses to the selected questions raised in the consultation

Q1: Do you agree with the description of the various problems with the PRIIPs Regulation as stated above? Are there any other aspects of the regulation that you would like to raise as the government moves beyond PRIIPs into a new retail disclosure regime?

We agree with the analysis of the shortcomings of the PRIIPs Regulation; the description in Chapter Two is a fair and accurate reflection of criticisms which both firms and consumer groups have been making for some time.

Q2: Do you agree with the principles set out in paragraph 3.2? If not, please explain.

Yes.

Q3: Do you agree that retail disclosure should aim to ensure that an investor is empowered to make well-informed decisions related to the product that they are purchasing, rather than focusing on comparability? If not, please explain.

Yes. We agree with the analysis in paragraphs 2.13 – 2.16, that the comparability measures are confusing and misleading and that the focus should be on clear, full and accessible information about the product being purchased.

Q4: Do you agree that disclosure requirements should be flexible, with prescriptive requirements for format and structure only when deemed necessary by the FCA? If not, please explain.

Yes. Although the extent to which the FCA deems any prescriptive requirements to be necessary must be based solely on ensuring clear communications and good consumer understanding.

Q5: Are you content with the decision to resolve the UCITS interaction through empowering the FCA to determine a future retail disclosure regime, as discussed above.

Yes. This is consistent with the approach summarised in paragraphs 3.9, 3.10 and 4.2, and should ensure a coherent regulatory regime.

Q6: Do you agree that there is no need to maintain any PRIIPs-related retail disclosure elements in legislation? If not, please explain.

Yes. This should enable a more flexible and agile approach to disclosure which will respond more quickly to changes in market conditions, new product development and changes in consumer behaviour or preference. It is also

consistent with the regulatory model summarised in paragraphs 4.2 – 4.5 and the practical approach reflected in paragraphs 3.9 and 3.10.

Q7: Upon revocation of the PRIIPs Regulation, do you agree with the government's view that the FCA will not require any new additional powers to deliver a retail disclosure regime in line with the objectives stated in Chapter Three? If not, please explain.

Yes. The FCA's existing powers will be sufficient to deliver an effective regime. But, as indicated in paragraph 4.2, it will be important that HM Treasury works closely with the FCA, and that FCA moves quickly to ensure there is an efficient transition between the revocation of the PRIIPs regime and the implementation of the new UK regime. Any regulatory gap would be likely to cause operational problems for firms and risks for consumers.

Q8: Are there any wider obstacles that prevent or discourage firms from offering investment products from different jurisdictions to UK retail investors, and what actions would you suggest that the government take on this issue?

Our experience following the UK's withdrawal from the EU, of managing investments held by customers who have moved overseas, indicates it may be very difficult to assess the effective legal and regulatory regime in place. It will be vital for FCA to present a clear and unambiguous set of rules; we found a lack of willingness to engage on this issue in 2019/20, and we concluded that we needed to commission legal advice on behalf of all members covering all EU states. This is clearly unproductive and expensive and can be resolved by greater regulatory clarity and willingness to engage.

To enable the regime to work effectively for a wider set of products, such as a US ETF as suggested in paragraph 5.3, consumers should expect to see disclosure information presented in a consistent (if not directly comparable) manner.

Q9: Do you have any views on digital disclosure, and in particular to what degree do you think a less prescriptive disclosure regime will facilitate innovative disclosure formats going forward?

Digital and other innovative communications tools and techniques, such as data visualisation, if used appropriately can aid consumer understanding and so support disclosure. A less prescriptive regime can support innovation but it must be consistent with the principles set out in paragraph 3.2, in particular the first bullet: *"To ensure that retail investors have access to clear and useful information to make evidence-based decisions for their prospective investments"*. It also needs to ensure equity across organisations: a small firm, or a product with a very niche market, might be disadvantaged if a limited marketing budget meant their disclosure format was more traditional.

Digital formats present an opportunity for a consumer to better test their understanding of a product, though they will not remove the risk that the consumer disregards the information, and some form of self-verification must be retained for consumers who have not taken advice.

In addition, the FCA will need to be agile and move quickly to respond to new developments so that firms and consumers can take the benefit of innovation in this area.

Q10: Do you have views on other priorities for retail disclosure reform that the government and FCA should consider in future? Similarly, are there other challenges or trends in retail disclosure that regulators and policymakers should consider?

A number of AFM members offer a Holloway Income Protection product: this product is only offered by friendly societies, and in addition to the useful income protection part of the contract, offers the opportunity uniquely for the friendly society to pay bonuses to policyholders. This ensures that whilst the majority of consumers do not claim on a policy in any year, and many not at all, there is the prospect of getting something back. FCA rules determine this product is classified as an investment even though, typically, 80 to 90% of premiums are directed towards protection; under current disclosure rules the firm has to prepare an illustration and documentation as if the product was purchased as an investment, even though this will invariably and misleadingly suggest the product offers poor value. We have highlighted this issue to FCA regularly, as well as the impact this has on the capacity of friendly societies to successfully compete, and meet demand from people poorly served by mainstream providers, such as the low paid and the self-employed. This has not been addressed through the action HM Treasury took on performance scenarios (as per paragraph 2.22).