On 21 November 2018, Guillaume Prache, managing director of BETTER FINANCE was asked by the ECON Committee of the European Parliament to make a statement on a proposed amendment to the PRIIPs Regulation. The European Commission and the Permanent Representation of Germany were also asked to make a statement on the same issue. Here is our statement.

European Parliament meeting on amending the PRIIPs Regulation

BETTER FINANCE Statement

"*The only function of economic forecasting is to make astrology look respectable*."
(Ezra Solomon, Professor of Finance, Stanford University)

BETTER FINANCE is very grateful for this opportunity to contribute to the policy debate on possibly amending the Regulation on key information documents (KID) for packaged retail and insurance-based investment products (PRIIPs).

BETTER FINANCE has always strongly supported the aim of the PRIIPs Regulation. It is the first – and so far the only - "horizontal" EU set of investor protection rules that encompasses both non-insurance based and insurance based retail investment products. The PRIIPs Regulation lays down the rules for a key information document (KID) "*in order to enable retail investors to **understand** and **compare** the key features and risks of the PRIIP*" (article 1 of the PRIIPs Level I Regulation). This major investor protection initiative <u>must</u> be preserved for EU savers' sake.

However, the current design of the level 1 and 2 rules has failed to meet their two goals: even for someone like me – who has studied it since 2015, the PRIIPs KID is <u>very difficult to **understand**</u> and <u>almost impossible to **compare**</u> even for similar products.

In addition, future performance and cost informations are much too often **misleading** and do not comply with several MiFID II requirements. In particular, MiFID II requires that "*where the information contains information on future performance, ... the information contains a **prominent warning that such <u>forecasts are not a reliable indicator of future performance</u>**.*"[1]

The UCITS funds' KIID (Key Investor Information Document) designed by the EU policy makers in 2010 is much more understandable and comparable, and much less misleading.

[1] MiFID II Delegated Regulation, article 44, 6e

These and other PRIIPs KID issues have been stressed several times to EU policy makers since 2015, not only by BETTER FINANCE but also by the entire EC Financial Services User Group (FSUG) and by the entire ESMA Stakeholder Group.

BETTER FINANCE appreciates the recent ESAs' efforts to address shortcomings that exist in the PRIIPs level 2 regulation. However, the timetable of **the ESAs public consultation issued on 8 November 2018** - only four weeks - does not allow for a proper stakeholder consultation, given the very technical nature of the issues being consulted upon.

The suggested 'quick-fixes' do not diminish the need to initiate as soon as possible the review of the entire Level 1 PRIIPs regulation, as required by its Art. 32 which was to be finalized by December 2018. A proper and full review is all the more necessary as there will be no time to conduct any consumer testing in the context of amending the delegated regulation before the European Parliament elections in May 2019, which raises the risk of rushing to develop solutions that are not addressing the current concerns faced by retail investors.

The current consultation mainly addresses only one of the issues, namely future performance scenarios. And even there, the ESAs consultation does not - by its own admission - change at all the methodology of future performance scenarios, which would still be based on the last five years' past performances, therefore still misleading, still overly optimistic for equity and bond products, still unreliable and too short term. "*There would be no change to the figures displayed*"[2].

The suggested inclusion of past performance information - although essential - does not remove these challenges with the current performance scenarios. We are also skeptical of the additional value of tweaking narrative explanations to retail consumers, especially attached to such figures/ scenarios. It is a well-known fact that most retail consumers do not read the 'small print'.

Furthermore, we have concerns on the amount of changes identified by the ESAs. In particular, the sheer number of articles identified by the ESAs proves that the changes to the PRIIPs delegated act as well as the potential shift from the UCITS KIID to the PRIIP KID is no trivial matter, resulting in the targeted changes being rather large in size and complexity. It is worrying that the rushed schedule will also not allow stakeholders to scrutinise the final proposals in detail until they are submitted to the European Parliament and Council for a final endorsement.

Conclusion

Given that most of the main PRIIPs issues will therefore not be addressed before the Level 1 review, and given that the current key disclosure regime for UCITS is much more effective, we strongly advocate and beg you for not delaying the legally required review of the entire PRIIPs level I Regulation by more than one year (to 2019 latest), and for extending the exemption for UCITS funds to the end of 2021, once such a review has been fully completed and its conclusions fully reflected in EU rules.

[2] Joint Consultation Paper concerning amendments to the PRIIPs KID (JC 2018 60) page 12