Ms. Irene TINAGLI
Chair of the ECON Committee
European Parliament
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Members of the ECON Committee

Brussels, 20 April 2020

Subject: ESMA's and EIOPA's draft level 2 rules for the Key Information Document ("KID") of "retail" investment products ("PRIIPs")

Dear Ms Tingali, Dear Members of the ECON Committee,

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

We are writing to you in our capacity as executives of major EU public interest organisations working on financial services and representing the interests of the **190 million EU citizens** aged 50+ as well as about **4 million EU citizens** as investment fund investors, bank savers, pension fund participants, life insurance policy holders, individual bond and shareholders, borrowers and other financial services users and extremely concerned with the possible **catastrophic impact of rejecting the draft Regulatory Technical Standards (level 2) on PRIIPS**, after the European Commission has already not followed the EU Law requiring the level 1 review to be carried out first by the end of 2019.

We are all the more concerned that the MEPs who recently wrote against the draft of revised level II rules are MEPs who always supported strongly and effectively a better protection of financial consumers. We know they mean well. This is why we are all the more saddened by this opposition, and **we plead all ECON MEPs to look at actual samples of the 3 pager PRIIPS KIDs for themselves , in particular compared to the existing 2 pager KIID for investment funds**. The KIID has been enforced 10 years ago and imposes at last standardized, comparable, and intelligible disclosures of actual long-term performances (relative to benchmarks) and of actual costs but is about to be thrown away by the EU Regulators. The new KID is currently not intelligible, is not comparable, not correct, and is highly misleading.

As you may know BETTER FINANCE has always strongly supported the aim of the PRIIPs Regulation - 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. However, despite the PRIIPs Regulation's admirable objectives for a key information document (KID) "*to enable retail investors to* ***understand*** ***and compare the key features and risks*** *of the PRIIP*", the current design of the level 2 rules and their execution have failed to meet their goals. In fact, the new KID neither facilitates understanding of the products, nor makes it possible for consumers to compare even similar products.

The new KIDs are misleading because the future returns are little more than a **projection of historic returns** over the past five years only. We fail to understand why stakeholders who criticise disclosing the information on actual relative long-term past performance (10 year minimum) in the KID, because consumers could rely on it for future performance expectations, support at the same time doing exactly that and in a binding disclosure: extrapolate the last past five year returns to make future performance scenarios. The different **future scenarios are not even projections of possible investment yields under various economic conditions**, **but only "drawings from the hypothetical distribution of past returns**"[1]. Since BETTER FINANCE agrees that past performance is not a reliable indicator of future results, we fail to understand how can extrapolating from past returns to determine future results be deemed reliable or helpful for consumers?

These and other PRIIPs KID issues have been stressed several times to EU policy makers since 2015, not only by BETTER FINANCE[2] but also by the entire EC Financial Services User Group (FSUG)[3] and by the entire ESMA Stakeholder Group[4] as well as by academics[5].

BETTER FINANCE welcomed the ESAs' efforts to address shortcomings that exist in the PRIIPs level 2 regulation and is extremely concerned about a possible rejection of the RTS as it would result in a range of **highly detrimental consequences for the EU savers**. In particular:

- EU savers will be deprived of all standardized and relative disclosures of past performance as next year the UCITS KIID is to be disposed of by EU legislators: they will no longer be allowed to know if the investment products have made any money or not, nor whether they have met their own investment objectives or not. "*we agree that information on past performance is of great relevance* […] *in particular if measured in a standardized and comparable manner*"[6], exactly what has been at last achieved with the UCITS KIID and is now about to be thrown away.
- EU savers will be left only with the linear "future performance scenarios" based on last five years' data: which is almost certain to be wrong, highly misleading, not intelligible, not comparable and violates several basic MIFID rules on investor information, indeed "*a triumph of pseudoscience over common sense*"[7].
- EU savers will be deprived of all intelligible and comparable cost information as it will be replaced by the non-intelligible "reduction in yield" indicator, **which is not the cost** per se but reflects the *impact of costs on a return*, computed on an undisclosed "future scenario", and not comprehensive for unit-linked products.

Taking all the above into consideration, we plead the Commission to support the hard work of the ESAs and their endeavours to address the current shortcomings of the level 2 regulatory framework for the benefit of the EU consumers.

Best regards,

Guillaume PRACHE	**Anne-Sophie Parent**
Managing Director	**Secretary General**
BETTER FINANCE	**AGE Platform Europe**

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[1] "Key information documents are misleading because, when you wade through the complexity, the prospective returns are little more than a projection of historic returns over the past five years. This is **a triumph of pseudoscience over common sense**" Professor John Kay in Financial Times, January 2018 https://www.ft.com/content/f1513818-fa06-11e7-9bfc-052cbba03425

[2] All BETTER FINANCE's positions papers, answers to public consultations and other documents referring to PRIIPs can be found here: https://betterfinance.eu/priips/#1570230448508-ce8d05fb-01ef

[3] FSUG's positions referring to PRIIPS can be found here: https://ec.europa.eu/info/sites/info/files/file_import/150212-response-kid-priips_en_0.pdf, https://ec.europa.eu/info/sites/info/files/file_import/160119-fsug-letter-priips_en_0.pdf

[4] ESMA SMSG's position can be found here: https://ec.europa.eu/info/sites/info/files/file_import/160119-fsug-letter-priips-annex_en_0.pdf

[5] "Key information documents are misleading because, when you wade through the complexity, the prospective returns are little more than a projection of historic returns over the past five years. This is a triumph of pseudoscience over common sense" Professor John Kay in Financial Times, January 2018 https://www.ft.com/content/f1513818-fa06-11e7-9bfc-052cbba03425

[6] Olivier Guersent, op.cit.

[7] FT ibid.

About us:

BETTER FINANCE is the public interest non-governmental organisation solely dedicated to defending and advocating the interests of European citizens as financial services users at European level to lawmakers and the public in order to promote research, information and training on investments, savings and personal finances. BETTER FINANCE is a federation counting 38 member organisations representing more than **4 million individual members** altogether.
AGE Platform Europe is a European network of more than 100 organisations of people aged 50+ representing directly more than 40 million older people in Europe. AGE aims to voice and promote the interests of the **190 million inhabitants** aged 50+ in the European Union and to raise awareness of the issues that concern them most. AGE's mission is to give a voice to older and retired people in the EU policy debates through the active participation of their representative organisations at EU, national, regional and local levels so as to inform EU policy development.