Future Disclosure Framework

Discussion Paper
DP22/6

December 2022

How to respond

We are asking for comments on this Discussion Paper (DP) by **7 March 2023**.

You can send them to us using the form on our website

Or in writing to:

Retail Investment & Distribution Policy
Financial Conduct Authority
12 Endeavour Square London E20 1JN

Email:
dp22-06@fca.org.uk

Moving around this document

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1 Overview

Introduction

1.1 Good retail disclosure is an effective tool that allows consumers to make informed decisions when buying retail investments. When designed effectively, disclosure also supports competition and market integrity.

1.2 The distribution of retail investments has changed in recent years, and disclosure regulations have not always reflected this. We have seen a trend towards online investment, and subsequently an increase in digital distribution of disclosure. However, most disclosure regulations were designed with advised sales and paper-based disclosure in mind. A review of retail disclosure is necessary to help financial services to be fit for the future. An overview of the existing disclosure regime is featured in Chapter 2.

1.3 Our 2017 Asset Management Market Study found that under 3% of retail investors read regulated pre-contractual fund disclosure documents. This indicates that the existing retail investment disclosure framework is not supporting good consumer outcomes.

1.4 We are now inviting discussion on how to address the issues of the past and prepare retail disclosure for the future.

1.5 On 9 December 2022, His Majesty's Treasury (the Treasury) issued a Consultation Paper (CP) on the future of retail disclosure in the UK. This sets out the government's intentions to revoke the Packaged Retail and Insurance-based Investment Products (PRIIPs) regulation and to remove the Undertaking for Collective Investment in Transferable Securities (UCITS) disclosure requirements, so that the FCA will become responsible for establishing a future retail disclosure regime. As set out in the CP, the Treasury do not intend to keep any PRIIPs or UCITS disclosure requirements in legislation or Regulatory Technical Standards (RTS). They intend for future disclosure requirements to sit only in the FCA Handbook. However, we may need additional powers to govern a new regime, for example, in relation to overseas funds marketed to UK retail investors.

1.6 The Treasury are proposing that retail disclosure should prioritise providing clear and useful information that supports consumers to make evidence-based investment decisions. They also propose that disclosure should be proportionate to the risk that consumers are taking in purchasing an investment product and the complexity of the decision that they are making.

1.7 The revocation of the PRIIPs Regulation provide us with an opportunity to design and deliver a retail disclosure framework that is tailored to the UK market and supports retail investors to make informed investment decisions.

1.8 The Consumer Duty, and its emphasis on outcomes-based regulation, will help us design a new disclosure regime which is similarly outcomes-focused and reduces rigidity and one-size fits all rules. This should enable greater innovation in disclosure that benefits retail investors and firms. Introducing flexibility can enable disclosure that is tailored to different product types and consumer groups, reflecting the change in the distribution of investments. This is now an achievable goal as the Duty will require firms to provide their customers with useful information that equips them to make effective, timely and properly informed decisions.

1.9 We will continue to work closely with the Treasury to ensure the new regime improves market transparency, competitiveness, and consumer protection.

What we are seeking views on

1.10 This Discussion Paper (DP) invites feedback on how we can design and deliver a good disclosure regime. We believe a replacement regime should be supportive, engaging, accessible and flexible. We also believe that these criteria will safeguard investor protection while increasing choice and reducing unnecessary or over prescriptive constraints on firms.

1.11 We also seek input on how we can future-proof retail disclosure regulation. It is important that a replacement regime does not constrain innovation in the market.

1.12 This DP complements the Treasury's CP and aligns with their vision for disclosure.

1.13 We invite views on:

- the **delivery** of retail disclosure, as discussed in Chapter 3
- the **presentation** of retail disclosure, as discussed in Chapter 4
- the **content** of retail disclosure, as discussed in Chapter 5

Who this applies to

1.14 This DP will be of particular interest to:

- investors and consumer organisations
- those who manufacture non-PRIIP packaged products, PRIIPs, UCITS and certain non-UCITS retail schemes (NURS) and those who advise on or distribute non-packaged PRIIPs, PRIIPs, UCITS and such NURS, including:
  - issuers of securities that are or may be classed as PRIIPs (including businesses that do not require Part 4A authorisation under FSMA)
  - life companies and discretionary investment management firms
  - firms providing services in relation to insurance-based investments
  - fund managers, including overseas fund managers, wealth managers and financial advisers
  - stockbrokers and other firms that provide advice to retail clients on funds and overseas funds
  - issuers of structured products and derivatives
  - firms operating retail distribution platforms

The wider context

1.15 We sought input from firms and consumers about their initial experiences of the requirements introduced by PRIIPs Regulation in our 2018 Call for Input. This supported our subsequent engagement on the PRIIPs Regulation with the European Supervisory Authorities. It also provided us with evidence that the one-size fits all approach taken by the PRIIPs Regulation was not conducive to good outcomes. The evidence underpinning criticism of the regime predominantly focused on the prescriptive methodologies that are applied to a wide range of products with different features and characteristics. This resulted in instances where risk scores or performance scenarios did not accurately represent the riskiness or expected performance of a product.

1.16 In 2021, legislative amendments came into force which allowed us to make specific changes to the PRIIPs Regulation. In our 2021 Consultation Paper we used these new powers to make targeted amendments to the PRIIPs Regulation to address the most egregious issues with the regime. We issued a Policy Statement in March 2022 finalising these rules but acknowledged that a more fundamental review of the regime was needed.

Disclosure

1.17 Retail disclosure can provide retail investors with the necessary information to make informed, effective decisions to pursue their financial goals. It also allows product manufacturers to highlight the features of their products, facilitating competition and building trust.

1.18 A good retail disclosure regime can support the FCA strategy and aims. Firstly, disclosure should support our **consumer protection** aims. When investors are provided with clear and useful information, they can make informed decisions that fit their lifestyle, risk tolerance and saving goals. We believe that the regulation of retail disclosure should reflect this objective by setting appropriate standards that ensure consumers are supported in their decision-making without unduly burdening firms.

1.19 Disclosure can also further our **market integrity** objectives. We think market participants are well-placed to design and deliver disclosures that support their clients' interests. This enables investors to purchase products that are likely to suit their circumstances, increasing trust in the market and market participants.

1.20 A disclosure regime should also support **competition and growth**. An informative disclosure regime that investors engage with allows manufacturers and distributors to differentiate their product offering from their competitors and to highlight the features of their products.

1.21 Effective disclosure can support consumers in identifying and accessing investments that suit that circumstances and attitude to risk. This work will support our **Consumer Investment Strategy**, as it should support consumers to invest with confidence, understanding the risks they are taking and the regulatory protections provided.

1.22 In our 2022/23 Business Plan we published 13 commitments from the Strategy where we will focus our work. Retail disclosure supports 2 of these commitments:

- Enabling consumers to help themselves – this work will allow us to design and deliver an effective disclosure regime that provides retail investors with the information they need to make informed decisions.
- Preparing financial services for the future – this is an opportunity for us to implement a bespoke disclosure regime that is tailored to the UK markets.

1.23 Our work on Smarter Consumer Communications highlighted the need for innovation in disclosure to reflect innovation in the markets. This DP builds on this and other FCA work, as well as the broader body of evidence on consumer communications and disclosure.

EU Withdrawal

1.24 After the UK's exit from the EU on 1 January 2020 and upon the end of the transition and implementation period on 31 December 2020, the PRIIPs Regulation and Regulatory Technical Standards (RTS) were converted into domestic law via the European Union (Withdrawal) Act 2018. This gave powers to Ministers to make secondary legislation to amend retained EU law to ensure it functions effectively after exit.

1.25 The UCITS KII Regulation was also converted into domestic legislation via the same Act.

The Treasury

1.26 The current Financial Services and Markets (FSM) Bill tailors financial services regulation to UK markets to bolster the competitiveness of the UK as a global financial centre and deliver better outcomes for consumers and businesses.

1.27 The FSM Bill repeals retained EU law in financial services, including the PRIIPs legislation and the UCITS disclosure requirements. As set out in the Treasury's CP, the responsibility for future retail disclosure rules will become a matter for the FCA.

1.28 We are issuing this DP as part of our preparation for making and implementing these rules.

Consumer Duty

1.29 In July 2022 we published our final rules and guidance for the Consumer Duty. This set higher and clearer standards of consumer protection across retail financial services and require firms to put their customers' needs first.

1.30 The Consumer Duty requires firms' communications to support and enable consumers to make informed decisions about financial products and services. We want consumers to be given the information they need, at the right time, and presented in a way that they can understand.

1.31 We will ensure that our vision for the future disclosure regime will enable firms to meet their requirements under the Consumer Duty. Further, we believe that the outcomes-based objectives of the Consumer Duty will complement our aims in the disclosure space and will provide a basis on which we can design a flexible regime that reduces detailed disclosure rules. We believe that outcomes-based regulations will support consumer decision making by allowing firms to optimise their disclosures.

Equality and diversity considerations

1.32 We have considered the equality and diversity issues that may arise from this DP. We do not consider that it adversely impacts any of the groups with protected characteristics ie age, disability, sex, marriage or civil partnership, pregnancy and maternity, race, religion and belief, sexual orientation, and gender reassignment. We will keep this under review as we develop any proposals for consultation.

Next steps

1.33 We welcome feedback on the topics discussed by **7 March 2023**. We will then provide feedback and issue a CP.

1.34 We intend to conduct consumer testing ahead of consulting on new rules for disclosure.

1.35 Please respond to this DP by completing the form on our website.

2 The UK Disclosure Regime

2.1 The regime governing retail investment disclosure in the UK consists of a patchwork of requirements largely derived from EU legislation. While this DP will primarily focus on the PRIIPs KID and UCITS KIID, there are other disclosure requirements that may also apply to a product classified as a PRIIPs or UCITS.

PRIIPs

2.2 The PRIIPs Regulation is one of the primary retail disclosure regulations due to its broad scope and the wide range of products it covers. PRIIPs came into effect on 1 January 2018 and was onshored into UK legislation following the UK's exit from the EU.

2.3 The PRIIPs Regulation requires that a KID is provided to retail investors prior to their purchase of a retail investment product. The KID is a stand-alone, standardised document that can be a maximum of 3-sides of A4 paper. The aim of the PRIIPs Regulation is to encourage competition by helping investors to better understand the key features, risk, rewards, and costs of different PRIIPs, through access to a short and consumer-friendly pre-contractual disclosure document.

2.4 The PRIIPs Regulation requires the inclusion of the following information, presented in a pre-determined sequence of sections:

- What is the product?
- What are the risks and what could I get in return?
- What happens if the PRIIPs manufacturer is unable to pay out?
- What are the costs?
- How long should I hold it, and can I take money out early?
- How can I complain?
- Other relevant information.

2.5 There are further, detailed rules included in the RTS. These are:

- The content and presentation of the KID;
- How to calculate some of the information in the KID;
- The review, revision and republication of the KID; and
- The timing of delivery of the KID.

2.6 The section outlining what the product is must set out information on the specification of the PRIIPs 'type,' its objective and the intended market. It may also include a comprehension alert, explaining that the product is not simple and may be difficult to understand, if applicable.

2.7 The section on risk and reward sets out information on the risk and the performance of the product. Risk is disclosed via a summary risk indicator (SRI), a numeric figure that provides information on the risk profile of the PRIIP on a scale from 1 (lower risk) to 7 (higher risk). A prescriptive methodology underpins the SRI score, and it combines market and credit risk. We recently removed performance scenarios and replaced them with a narrative description of what factors may impact the instrument's performance.

2.8 The section on costs requires the disclosure of all direct and indirect costs associated with an investment in the PRIIP. This includes one-off costs, recurring costs and incidental costs. The total aggregated costs of the PRIIP must also be presented as a single number in monetary and percentage terms for an assumed investment of UK £10,000. The transaction cost displayed is prescribed by the slippage methodology.

UCITS

2.9 The UCITS IV Directive set out the framework for the Key Investor Information Document (KIID), which was intended to create a uniform document that communicates appropriate information about the essential characteristics about a UCITS to investors. HM Treasury onshored the KIID regulation as part of the EU (Withdrawal) Act 2018. The UCITS KIID is a stand-alone, pre-contractual 2-page document and provides information on the key features of the fund. It must be provided to an investor before an investment is made. As with the PRIIPs KID, there are rules that prescribes the information, formatting, presentation and delivery of the KIID. Managers of UK funds who produce a UCITS KIID or a NURS-KII do not currently need to produce a PRIIPs KID.

2.10 The KIID has five key sections:

- Identification of the scheme and that the FCA is the competent authority of the scheme
- A short description of its investment objectives and investment policy
- Past performance or, where relevant, performance scenarios
- Costs and associated charges; and
- Risk/reward profile of the investment, including appropriate guidance and warnings in relation to the risks associated with investments in the scheme.

2.11 The section on risk and reward requires the disclosure of a synthetic risk and reward indicator (SRRI), a numeric figure that indicates the risk profile of a UCITS on a scale from 1 (lower risk) to 7 (higher risk). The SRRI is based on the volatility of the fund over the past five years.

2.12 The section on costs requires the disclosure of one-off and ongoing charges. The ongoing charge is presented as a single figure.

2.13 For most UK UCITS, a KIID discloses information on performance in a graphical format. It includes a bar chart displaying up to 10 years performance in percentage terms. If a UCITS has less than five complete years of data, a blank slot must be used for any year for which data is not available.

2.14 There are similar rules in COLL 4 that require a non-UCITS retail scheme (NURS) to produce and provide a short document containing key investor information (NURS-KII). The KII has the same five sections as the UCITS KIID.

COBS 13

2.15 COBS 13 contains the provisions that govern the preparation and provision of a key features document (KFD) and key features illustration (KFI). We want to evidence build as a basis for any future work we conduct in this area, therefore we also invite thoughts on COBS 13.

2.16 A firm must prepare and provide a KFD for each non-PRIIP packaged product, cash-deposit Investment Savings Account (ISA), cash-only lifetime ISA and cash-deposit Child Trust Fund (CTF) it produces. This must be provided in a durable medium or via a website that meets the website conditions. The KFD must include enough information so a retail client can make an informed decision about the purchase. It also must explain the complaints process, FSCS protection (if applicable) and information on the right to cancel or withdraw.

2.17 A KFD produced for a non-PRIIP packaged product must also include descriptions of a product under the following headings:

- It's aims
- Your commitment/Your investment
- Risks
- Questions and Answers

2.18 A firm must prepare and provide a KFI for each non-PRIIP packaged product. The KFI must include appropriate charges information; information about any interest that will be paid to clients on money held within a personal pension scheme bank account; and, if it is prepared for a non-PRIIP packaged product which is not a financial instrument, it must include a standardised deterministic projection. Firms may also include stochastic projections if this will inform consumer understanding.

Onshored EU Legislation

2.19 There are other pieces of onshored EU legislation that govern retail investment disclosure. They include MiFID II, the Insurance Distribution Directive (IDD), and the Distance Marketing Directive. This Discussion Paper will focus primarily on the principles that underpin good retail disclosure. At the initial stage we will only be given the powers to address disclosure requirements in PRIIPs and UCITS, though we understand that there is a broader landscape and in the longer-term we intend to ensure that there is a cohesive disclosure regime.

ESG

2.20 We have recently proposed to create Sustainable Disclosure Requirements (SDR) for products that have Environmental, Social and Governance (ESG) claims. We will continue to examine how this fits into the wider disclosure framework, rather than as a discrete standalone document.

3 Delivery

3.1 Delivery is an important aspect of retail disclosure, including when and how information is communicated. This chapter sets out our initial view of how the delivery of retail disclosure can be improved. We invite feedback and opinions from industry and consumer groups.

3.2 We have seen a change in how consumers interact with financial services as they embrace digital solutions in banking and investing. As of 2020, only 9% of UK adults were digitally excluded, while the UK market is the most digitally savvy in Europe with 65% of consumers being happy to bank or invest online. However, disclosure rules have often been drafted to regulate paper-based disclosure and firms have raised concerns that rules can, at times, constrain them from delivering information in innovative and engaging ways. For example, most firms provide disclosure as a single PDF prior to the point of sale. Research suggests consumers do not engage with disclosure when it is provided this way.

3.3 Providing retail investors with information at the right time and in the right format is important in supporting consumer choice. Due to anchoring bias, (i.e. a behavioural bias that causes us to rely too heavily on the first piece of information received) consumers tend to give more weight to information received earlier in their journey and discount information that is received towards the end of their research and decision-making process. We want to align the delivery of information with the consumer journey, ensuring information is provided when it will be useful to consumers. It may be appropriate that disclosure is presented in a modular format so that the most important information for decision-making is disclosed to consumers earlier.

> **Q1: What are the benefits or drawbacks of the timing of disclosure being prescribed by the FCA? Or should it be left to firms to find the right time for their target consumer?**

3.4 We are unlikely to amend the durable medium requirement in the short term. However, we are conscious that in the longer term we will need to evaluate it to enable more appropriate delivery of information and to effectively future-proof disclosure rules. We are currently exploring the balance between the safeguards the existing durable medium requirements supply and the constraint they have on innovation and consumer understanding. For example, the principle of storability and unchanged reproduction clearly provides protection to retail investors, as it prevents product manufacturers and distributors from unilaterally modifying information. However, the drafting of the rules has caused firms to be cautious about the medium in which they provide information and has resulted in an over-reliance on PDF documents.

> **Q2: Will a durable medium requirement constrain your ability to deliver innovative disclosure? Are there any other rules that may constrain the medium in which information can be provided?**

3.5 We want to ensure that the rules we design are appropriate for the digital age and accommodate future technological changes. For a disclosure regime to be successful it needs to be future-proofed; we do not want to introduce a framework that constrains industry from innovating in the future. We intend to introduce rules that are technology-neutral and to enable the delivery of effective digital disclosure while also ensuring investors receive supportive paper-based disclosure if that is their preference.

3.6 Product manufacturers and retail distributors have adapted their marketing to the digital age, designing marketing materials in a way that engages retail investors and influences their decision making. For example, we have seen interactive product overview pages from retail distributors as well as the utilisation of filtering on platforms that allows retail investors to find products based on their own investment aims.

3.7 Alternatively, we are assessing the merits and drawbacks of requiring retail disclosure to be machine readable, or where the content can be easily processed by a computer. This would enable third-party providers to create dynamic and supportive comparison tools based on the prescriptive information included within the disclosure. It is our view that this would enable greater consumer engagement with disclosure information when they are in the process of making their decision.

Q3: **Do you agree that we should future proof the disclosure requirements? How else can we do this? Do you have any views or evidence on the merits and drawbacks of different approaches to future-proofing?**

Q4: **How do you envision the distribution of retail disclosure changing over the next 5-10 years?**

3.8 We want to re-examine the relationship between product manufacturer and distributor in the creation and delivery of disclosure and ensure that a replacement regime enables them to meet requirements under the Consumer Duty. Product manufacturers have more detailed data on the product. This suggests they are best placed to design the disclosure as they can more easily identify and flag key information and understand what the most important features to disclose are. However, given that distributors will have more interaction with the end purchaser, they may have a better understanding of how the intended target market will want to see information presented. We are seeking industry feedback on the relationship between manufacturers and distributors on the responsibility for designing and delivering disclosure.

Q5: **Who should have responsibility for producing retail disclosure?**

3.9 Article 5 of the existing PRIIPs Regulation requires the creation of a KID prior to a product being 'made available' to retail investors. In our March 2022 PS we issued rules and guidance to provide clarification on when a product is or is not made available to retail investors. We will review the existing made available requirements and consider aligning them with the Consumer Duty and the proposed approach for the UK Prospectus Regime. We seek feedback on how best to define whether a product is made available to retail consumers and how this interacts with the relationship between the manufacturer and the distributor. For example, the liability of providing a retail investor with a PRIIP if a KID is not prepared is with the PRIIP manufacturer, and we want to understand if this continues to be appropriate. We have received feedback that the distributor should be liable for selling a financial product to a retail investor without a KID. However, this could reduce choice in retail markets if manufacturers do not prepare the relevant disclosures for products that are suitable for retail investors.

Q6: How should it be determined that a product is suitable for the retail market and therefore that regulated disclosure should be produced? Does this need to be balanced with choice for retail investors?

4 Presentation

4.1 It is our view that good disclosure should be accessible and engaging and have enough flexibility to allow information to be presented optimally for the consumer. This will ensure that retail investors have access to clear and useful information and provides firms with the flexibility to provide information in the way they think is beneficial.

4.2 This chapter invites views and discussion on the presentation of retail disclosure, with a focus on new and interactive approaches to the design.

4.3 Consumer research suggests that consumers retain information if it is presented in a way that is novel, simple, and accessible. Our Smarter Communications work found that the key principles for effective disclosure design included plain language, the prominent display of key information, and the inclusion of images and graphics. We continue to believe that these elements underpin good presentation of disclosure and believe this review provides us with the opportunity to integrate these elements of good design into our rules.

Q7: Do you agree with these principles for effective disclosure design? Are there any other principles we should assess?

Q8: Do respondents have any evidence or consumer testing results on the merits or drawbacks of different forms of presentation?

4.4 This review is an opportunity to move away from overly prescriptive presentation requirements of existing disclosure requirements. We are seeking feedback on how information could be presented to better inform retail investors and to allow product manufacturers and distributors to distinguish themselves from their competitors and highlight the product features.

4.5 We are seeking input on the concept of layering, and if this is an effective way to present information to retail investors. Layering would allow firms to include certain information upfront, with more granular information provided later. We think this approach could provide an appropriate balance between providing succinct and useful information while ensuring transparency is maintained. At this stage, we do not envision being prescriptive in how layering would look in practice, as we recognise different formatting may work better for different products.

4.6 For layering to be effective we may need to move away from prescribing the length of a disclosure. Instead, we would consider applying character limits for specific information. Alternatively, we will look at using the Consumer Duty to ensure that firms are considering the usability and appropriateness of the disclosures they provide, and that they are carrying out appropriate consumer testing of the disclosures they deliver. This should prevent investors being given long disclosures that bury or obscure information.

4.7 One way of introducing layering could be done via a dashboard. A dashboard would include the most important product information that is required to adequately inform a retail investor about the product they are purchasing. For example, it could include basic information on costs, risk and recommended or minimum holding period.

4.8 Alongside the dashboard, firms would be able to supply further information how they see fit. This would allow manufacturers and distributors to use graphics, tables, and images etc., in a way that presents product information in the most appropriate way. Further, it would facilitate tailoring, which we discuss in Chapter 5, and based on product characteristics or target market firms could adjust how they provide and present information.

4.9 Some products may be more complex and require additional information to facilitate consumer understanding. Therefore, we are considering increasing flexibility for firms to provide proportional disclosure which can vary based on the risk and complexity of the product. It is our view that this information could be presented in a way that is layered to ensure appropriate clarity.

> **Q9:** **Evidence suggests that layering in retail disclosure can improve consumer understanding. Do you agree with this and can layering also reduce the burden on firms? Are there any challenges we should consider?**

4.10 We are interested in exploring the potential benefits and consequences of amending our rules to facilitate interactive approaches to retail disclosure and welcome views on this.

4.11 With the increasing digital distribution of investments, it would be beneficial for a future disclosure framework to accommodate interactive retail disclosure. This would allow disclosures to provide information tailored to the retail investor. For example, rather than providing costs and charges information based on a nominal amount, an investor could enter the amount they intend to invest to get a clearer understanding of the charges. Further, investors could amend how long they intend to hold the product before to better understand the performance information.

4.12 Information about financial products can often be complex, and retail investors do not always understand the jargon featured in existing disclosures. Interactive disclosure that accommodates hover-over buttons, hyperlinks or pop-ups could help improve understanding. For example, terminology such as 'transaction costs,' 'volatility,' or 'liquidity risk' could be accompanied by a simple and clear explanation. This would help inform retail investors while keeping disclosures succinct.

4.13 However, there are obviously drawbacks to this approach and safeguards would need to be implemented. For example, the storability of interactive information would prove problematic. If a retail investor believed that they had been miss-sold a product, it is not clear how they would be able to prove the exact information they received.

> **Q10:** **Are there other interactive disclosure approaches we should evaluate?**

4.14 Retail investments can be complex, and the language used in their disclosures often reflects this. We are seeking input on how we can enable firms to use plain language that facilitates consumer understanding. There are benefits to adopting terms and definitions, as it means that its use is always the same and always referring to the same thing. However, there are problems with the use of jargon within financial disclosures.

We discussed how interactive disclosures could mitigate this harm in paragraph 4.11. We are also interested in the feasibility of allowing firms to move away from jargon and be able to use more plain language when presenting information.

Q11: How can disclosure requirements facilitate firms to use plain language to further consumer understanding while balancing accuracy, particularly with complex products?

5 Content

5.1 Retail disclosure can be a used as a tool to adequately inform consumers about the product they are purchasing. This enables consumers to engage with capital markets and to purchase retail investments that support their investment aims, risk tolerance and long-term goals. It also builds trust in markets and their participants, as the provision of accurate, useful, and informative information should reduce the likelihood of mis selling. Further, good disclosure can facilitate competition by allowing firms to highlight and explain the beneficial features of their product.

5.2 This chapter focuses on what information should be disclosed to retail investors prior to entering a contract. It will discuss what prescription, if any, the FCA should have over the information provided and will invite feedback on the balance between firm flexibility and consumer safeguarding.

5.3 We have heard some feedback that firms are best placed to know what information their customers want and need to make effective financial decisions, as they are closer to the process. Alternatively, there is a view that there should be a set standard to ensure consistency for consumers and effective competition. It is our view that there are some elements of disclosure, such as costs and charges, that are so essential to consumer investment choice that they should be more strictly prescribed. This view is shared by HM Treasury, who noted that such areas may require more prescriptive rules in their recent consultation on this matter.

5.4 Much of the criticism of the PRIIPs regime has been related to the broad-based comparability. A high degree of standardisation across a diverse market will necessarily mean that the disclosure will work better for some products than others. However, we recognise that comparability can be useful in many instances to enhance consumer understanding, support competition, and reduce manipulation of data or information gaming. We invite feedback on the right balance between flexibility and consistency in consumer disclosure.

5.5 We want to understand the degree to which we should introduce flexibility into the content of disclosure such that it is still useful to consumers in their decision-making and understanding of different products. Flexibility can facilitate consumer understanding by tailoring information more appropriately to the target market. Prescriptivism is useful for facilitating like-with-like comparisons of similar products, allowing consumers to fully appreciate and understand the differences between similar products.

> **Q12:** **What do you consider the appropriate balance between flexibility and prescription in disclosure? Does comparison feature in this balance?**

> **Q13:** **What information, if any, should be comparable? Do you have evidence to support or refute comparability between similar product types?**

5.6 It may be the case that there is certain information that is so essential to consumer's ability to make an effective investment choice, that the method of calculation and presentation should be prescribed. For example, for a consumer to make an informed decision about an investment product, they should be able to understand the difference in cost structure or risk exposure between those that they may be considering.

Costs and Charges

5.7 The transparent provision of costs and charges can support retail investors to make informed decisions about whether the product they intend to purchase is fair value for money. Simple and transparent cost disclosure also helps build trust and facilitates competition as firms cannot obscure costs and charges. Having a common method to calculate costs also helps to reduce gaming.

5.8 We recognise that retail investors do not always understand the costs they are currently presented with. However, the underlying information can be useful to some investors and to other market participants, regulators, and financial media. We need to ensure there is a balance between providing information that is useful to a consumer in their decision making and not providing too much information which is either unhelpful and/or clouds a consumer's decision making.

5.9 We have noted that, in some instances, retail investors do not always understand the costs that are included due to the complexity of the underlying methodology and the composition of indirect costs. Currently, firms are required to disclose, one-off, ongoing costs, and incidental costs in both percentages and whole numbers for different scenarios and as reductions in yields.

5.10 Therefore, we are inviting feedback on disclosing a single figure for one-off and ongoing costs upfront, with investors able to find further information about the component parts if they want to do so. Firms would be able to prominently display simplified costs while signposting to more detailed cost and charges breakdowns that can provide more granular information for interested consumers This could support our suggestions on digital disclosures, and the possibilities for interactive or layered disclosure.

5.11 As discussed in paragraph 4.9, we are interested in how we can introduce flexibility so that firms are able to present useful information to investors. Given the breadth of retail investment products, the structure of the product and the costs and charges it may incur can vary. We are in the initial stages of exploring the viability of applying different cost methodologies and criteria dependent on product type. For example, investment trusts have a different charging system to ETFs, and it may be appropriate for the disclosure to reflect this.

Q14: What level of prescription should be involved in the calculation of costs to ensure clarity and consistency for consumers while also prioritising the need for accuracy?

Q15: What are the pros and cons of presenting cost as single figure, with more detailed information layered in disclosure?

Risk

5.12 Disclosures should support consumers to make informed investment decisions. The risk profile of a product can inform consumer decision making and support them in purchasing a financial product that is appropriate to their risk tolerance and their financial aims. The transparent disclosure of risk builds consumer trust in markets and financial institutions.

5.13 To ensure investors purchase products that suit their objectives and risk appetite, it is important that consumers have information on the risks of products. We are seeking input on how we can ensure that risk is displayed appropriately, in an informative and proportionate way.

5.14 Research shows that visual representations, such as graphics or graphs, can help improve information processing. This is even more beneficial for those retail investors who have less financial literacy. Therefore, we want to understand if it would be beneficial to provide firms with the flexibility to include risk in a graphic format, and/or to be allowed to disclose risk in the way they see fit. We also want to understand how we can achieve firm flexibility while also maintaining enough consistency so that retail investors can adequately understand risk. We are evaluating the merits of facilitating the comparison of risk across substitutable products.

5.15 We also welcome feedback on how we can ensure that risk and performance information is calculated and displayed in an appropriate way through disclosure, and if it is feasible to harmonise risk disclosure across packaged products.

> **Q16:** **What level of flexibility should there be in the calculation and presentation of risks?**

Performance

5.16 Performance can be disclosed to retail investors in a range of ways, including past performance, performance scenarios and narrative descriptions of performance.

5.17 We believe manufacturers and distributors should have more flexibility in how they present this information. There is research which shows that retail investors attach too much weight to past performance to the detriment of other key metrics that will impact their return (e.g. costs). It is also the case that past performance is not an appropriate guide for future performance.

5.18 We seek feedback on the introduction of flexibility in the presentation of performance scenarios or past performance depending on the type of product. We want to better understand the role of the FCA in prescribing performance information. While it is evident that requiring all products to present performance in the same way can result in misleading information being presented, this may also happen if we retire prescriptive performance requirements.

5.19 Therefore, we invite feedback on what the purpose of performance information is and how performance can best be communicated to retail investors based on product type.

Q17: What is the purpose of performance disclosure?

Q18: To what extent should the FCA prescribe the performance information to be provided to retail investors? Should the FCA categorise products for the purpose of performance disclosure?

5.20 Product manufacturers and distributors are required to design and distribute a product with a specific target market in mind and we have existing rules in place that govern this. Therefore, we are considering the benefits and disadvantages of allowing firms to tailor their disclosure to their target market.

5.21 Retail investments cover a broad range of products with a variety of characteristics and structures. Products have differing investment objectives and risks and are marketed to specific target markets. Furthermore, retail investors will have different motivations for buying financial investments, and different goals for investing.

5.22 Tailoring may support competition by allowing firms to highlight specificities of their financial product and distinguish it from others. Firms would be able to tailor their disclosure to their target market and to highlight information that is important to that market. For example, specific ESG goals.

5.23 Further, firms would be able to tailor the information provided based on the complexity of a product and could decide what the key information of a product is and put that in a more prominent position with the use of layering.

5.24 Tailoring to a target audience may also be useful for effective communications and ensuring the appropriate information for a variety of different investment backgrounds. We invite feedback on whether tailored disclosure is a viable goal of a new regime and could be achieved through less prescriptive rules.

Q19: Would tailoring or flexibility promote accuracy and enhance consumer engagement?

5.25 There is other important content that retail investors should be provided with, but which may not be best suited to a product disclosure. For example, retail investors should understand their right to redress, including how they can complain, or what protections they may or may not have under FSCS (Financial Services Compensation Scheme) or FOS (Financial Ombudsman Service), prior to entering into a contract.

5.26 Information on recommended holding periods, and any penalties for early withdrawal, as well as firm information and the target audience the product is intended for is important to disclose to retail investors.

5.27 However, we want to understand what information should be presented with the prescribed product disclosure alongside costs and risks and which information would be better communicated in a different way. For example, it might be the case that information on the firm, their complaints procedures, and any redress protections is better disclosed in a separate place or at a different stage in the consumer journey. We seek views from industry and consumer groups on this.

5.28 Retail investors choose products for a variety of different reasons, with factors such as Environmental, Social and Governance (ESG) becoming increasingly important in their decision-making. It is our view that manufacturers and distributors should have more flexibility over what additional information should be disclosed to investors. We also seek input on how the replacement regime can complement other disclosure documents, rather than replicating existing information. For example, the replacement regime could integrate key ESG metrics or cross-reference the upcoming disclosure documents under the Sustainability Disclosure Requirements (SDR).

Q20: **Are there other content requirements that should be included in regulated disclosure? Should this content be disclosed alongside product information?**

6 Conclusion

6.1 The ideas presented in this Discussion Paper have been guided by HMT's principles for disclosure as well as our own statutory FCA objectives, and the FCA's overall strategy (including the Consumer Investments Strategy).

6.2 We recognise that in this Discussion Paper we have presented a variety of different ideas. We are in the early stages of assessing the validity and gathering evidence to support these goals.

6.3 We seek industry and consumer views on what the right way forward is on these issues to help us develop a coherent and robust retail disclosure regime that can further HMT's objectives in a way that supports retail investors and is proportionate on firms.

6.4 We want to take a strategic approach to our work on retail disclosure and its relation to the wider set of onshored EU files that will be repealed though the FSM Bill. We recognise that there is still more to be done and that addressing PRIIPS and UCITS disclosure rules is a first step given our mandate from HMT.

6.5 We view this DP as the first step in developing a new regulatory retail investment framework which safeguards consumer interests through a proportionate and flexible disclosure regime. Although not all regulations will be reviewed in the immediate timeframe, it is important to consider the wider legislative and regulatory interactions of disclosure. We want to open this discussion now so that we can understand how we can create a disclosure framework that is fit for function.

Annex 1
Questions in this paper

Q1: What are the benefits or drawbacks of the timing of disclosure being prescribed by the FCA? Or should it be left to firms to find the right time for their target consumer?

Q2: Will a durable medium requirement constrain your ability to deliver innovative disclosure? Are there any other rules that may constrain the medium in which information can be provided?

Q3: Do you agree that we should future proof the disclosure requirements? How else can we do this? Do you have any views or evidence on the merits and drawbacks of different approaches to future-proofing?

Q4: How do you envision the distribution of retail disclosure changing over the next 5-10 years?

Q5: Who should have responsibility for producing retail disclosure?

Q6: How should it be determined that a product is suitable for the retail market and therefore that regulated disclosure should be produced? Does this need to be balanced with choice for retail investors?

Q7: Do you agree with these principles for effective disclosure design? Are there any other principles we should assess?

Q8: Do respondents have any evidence or consumer testing results on the merits or drawbacks of different forms of presentation?

Q9: Evidence suggests that layering in retail disclosure can improve consumer understanding. Do you agree with this and can layering also reduce the burden on firms? Are there any challenges we should consider?

Q10: Are there other interactive disclosure approaches we should evaluate?

Q11: How can disclosure requirements facilitate firms to use plain language to further consumer understanding while balancing accuracy, particularly with complex products?

Q12: **What do you consider the appropriate balance between flexibility and prescription in disclosure? Does comparison feature in this balance?**

Q13: **What information, if any, should be comparable? Do you have evidence to support or refute comparability between similar product types?**

Q14: **What level of prescription should be involved in the calculation of costs to ensure clarity and consistency for consumers while also prioritising the need for accuracy?**

Q15: **What are the pros and cons of presenting cost as single figure, with more detailed information layered in disclosure?**

Q16: **What level of flexibility should there be in the calculation and presentation of costs and risks?**

Q17: **What is the purpose of performance disclosure?**

Q18: **To what extent should the FCA prescribe the performance information to be provided to retail investors? Should the FCA categorise products for the purpose of performance disclosure?**

Q19: **Would tailoring or flexibility promote accuracy and enhance consumer engagement?**

Q20: **Are there other content requirements that should be included in regulated disclosure? Should this content be disclosed alongside product information?**

Annex 2
Abbreviations used in this paper

Abbreviation	Description
COBS	Conduct of Business Sourcebook
COLL	Collective Investment Schemes
CP	Consultation Paper
CTF	Child Trust Fund
DP	Discussion Paper
ESG	Environmental Social & Governance
FOS	Financial Ombudsman Service
FSCS	Financial Services Compensation Scheme
FSMA	Financial Services & Markets Act
IDD	Insurance Distribution Directive
KFD	Key Features Documents
KFI	Key Features Information
KID	Key Information Document
KIID	Key Investor Information Document
MifID	Markets in Financial Instruments Directive
NURS	Non-UCITS Retail Schemes
PRIIPs	Packaged Retail and Insurance-based Investment Products
RTS	Regulatory Technical Standards
SDR	Sustainable Disclosure Requirements
SRI	Summary Risk Indicator
UCITS	Undertaking for Collective Investment in Transferable Securities

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FINANCIAL
CONDUCT
AUTHORITY

12 Endeavour Square London E20 1JN
Telephone: +44 (0)20 7066 1000
Website: www.fca.org.uk