

**EFAMA response on the Joint Forum consultation “Point of Sale disclosure in the insurance, banking and securities sectors”**

**EFAMA** is the representative association for the European investment management industry. EFAMA represents through its 27 member associations and 60 corporate members about EUR 15 trillion in assets under management of which EUR 9.2 trillion was managed by 55,000 investment funds at end June 2013. Just under 35,500 of these funds were UCITS (Undertakings for Collective Investments in Transferable Securities) funds. For more information about EFAMA, please visit [www.efama.org](http://www.efama.org).

**I. General remarks**

EFAMA welcomes the opportunity to provide comments on the consultation on Point of Sale (“POS”) disclosure. We welcome that the Joint Forum supports the idea of achieving common “POS” disclosure requirements cross-sectorally.

EFAMA believes it is very important to have a concise “POS” disclosure document for packaged products which compete with CIS in the retail savings and investment market. This is important to improve investor protection by making sure retail clients have access to straightforward product information, and to help create a level playing field for competing investment products.

The European Union has seen this issue and is working on a regulation on Key Information Documents (“KIDs”) for packaged retail investment products, which will be directly applicable in the 28 EU Member States after a transition period of two years. The common rules will define “POS” disclosure requirements in the insurance, banking and securities sectors, adding to existing requirements already in place for UCITS.

**EFAMA believes that all insurance products with an investment element should be included in the scope of the “POS” disclosure document.** It is crucial for investors to have the same level of information and protection across similar packaged investment products. This is the fundamental objective of the “POS” disclosure document.

EFAMA supports the idea that all forms of retail investment products should have proper and effective disclosures. Certain type of products such as packaged products have common concepts and specificities which differ from simple products. EFAMA believes it is important to focus first on packaged products and to review the scope of “POS” documents at a later stage. This will enable to leverage on existing “POS” documents in order to extend such key information document to other simple products e.g. single shares, bonds and other saving products.

We believe that the “POS” disclosure should be concise and focus on the key information investors need in order to help them in the process of making an investment decision. It should also be made

clear that further information is available and where it can be found. We agree that the disclosure document should be provided free of charge and, in general, prior to purchase. However, we believe it is important that post-sale delivery should be permitted in certain circumstances, e.g. for execution only business and in the circumstances envisaged in the EU Distance Marketing Directive.

Additionally, we strongly believe that such “POS” requirements should be required for retail investors only. Professional investors do not benefit from such documents as they have their own due diligence procedures in place and are using more detailed documents such as full prospectuses before making an investment.

## **II. Detailed remarks**

**Recommendation 1: Jurisdictions should consider implementing a concise written or electronic POS disclosure document for the product sample identified in this report, taking into account the jurisdiction’s regulatory regime.**

EFAMA believes that a cross sectoral approach is needed to ensure a fair level playing field in terms of both products and producers. EFAMA believes that in order to ensure consistency and comparability between all packaged investment-based products “POS” disclosure should include all investment-based documents. The consultative document, however, only differs between unit-linked and risk-based insurance. So-called financial life insurance products whose value derives from underlying investments are not explicitly mentioned in the consultative document. It is therefore unclear whether these products are considered as unit-linked or risk-based. Since those products are in practice sold as investment products, it is crucial that they are included in the “POS” disclosure.

We agree that “POS” disclosure documents should be written in a concise manner. Standardised formats help consumers to compare the different features of the products offered to them. However, as a prerequisite to producing shorter and comparable information, more work has to be done on defining common terminology, product and risk segmentation, calculation methods and ways to determine what is “key” information.

**Recommendation 2: The POS disclosure document should be provided to consumers free of charge, before the time of purchase.**

We agree that the disclosure document should be provided free of charge and, in general, prior to purchase. However, we believe it is important that post-sale delivery should be permitted in certain circumstances, e.g. for execution only business and in the circumstances envisaged in the EU Distance Marketing Directive.

**Recommendation 3:** A jurisdiction considering POS disclosure should consider requiring that a POS disclosure document disclose key characteristics including costs, risks and financial benefits or other features of a given product and any underlying or referenced assets, investments or indices, irrespective of the financial sector from which the products are derived.

We agree with this recommendation and we would strongly suggest that more work needs to be done in order to define common terminology, product and risk segmentation, calculation methods and ways to determine what is “key” information, in particular from an international perspective. Existing “POS” disclosure documents such as the EU Key Investor Information Document (KIID) required by the UCITS Directive could serve as a global model for cross-sectoral approaches.

**Recommendation 4:** The POS disclosure document should be clear, fair, not misleading and written in a plain language designed to be understandable by the consumer.

This recommendation is in line with the current (regarding CIS) and future (regarding packaged retail products) standard in the European Union. We agree that jargon should be avoided, but certain technical terms are needed to describe precisely the different product features. ESMA has issued guidelines on how to deal with plain language that have proven useful for the EU Key Investor Information Document. In order to supplement the provision of clear “POS” disclosure, we recommend that the Joint Forum encourages stakeholders to do more work in terms of investor education.

**Recommendation 5:** The POS disclosures should include the same type of information to facilitate comparison of competing products.

EFAMA agrees with this recommendation. The “POS” disclosure document should help consumers to compare products and make a suitable investment decision. Therefore, the format and level of detail should be as consistent as possible between competing products. We accept though that “POS” disclosure documents may feature some content differences due to the variety of products.

Moreover, we consider this recommendation a key factor to ensure a fair level playing field as product producers will be required to disclose the same type of information, e.g. in terms of fees.

Knowing that a cross-sectoral approach will cover some markedly different products, the “POS” disclosure document could offer limited space for specific or additional information. However, certain existing products such as the UCITS, are already subject to the production of a key investor information document (KIID). Given the UCITS KIID has been tested among the consumers, and

significant investments have been made for the production of KIID, we stress on the fact that “POS” disclosure rules should be flexible enough in order to take into consideration existing documents and to avoid the obligation for the asset managers to adopt another template of “POS” disclosure.

**Recommendation 6: The POS disclosure document should be concise, set out key information about a product and may include, as appropriate, links or refer to other information. It should make clear that it does not provide exhaustive information.**

EFAMA agrees that the “POS” disclosure document should be concise, set out key information about a product and may include, as appropriate, links or references to other information. It should make clear that it does not provide exhaustive information on the product and that the investment decision should not be based solely on the key information document and that other documents should be read as well.

**Recommendation 7: Allocation of responsibility for preparing, making available and/or delivering the POS disclosure document should be clearly established, and the POS disclosure document should identify which entity is responsible for its content.**

EFAMA fully agrees and underlines the importance of making a clear distinction between the manufacturing of investment products on the one hand and the distribution of investment products on the other hand. This is crucial for both practical reasons and to avoid any doubts over the liability for the document’s content. Therefore, we think the “POS” disclosure document should be a stand-alone document produced by the manufacturer. A separate document could be produced by the distributors, which should not be labelled as an annex to the “POS” disclosure document.

**Recommendation 8: A jurisdiction considering POS disclosure should consider how to use its capabilities and powers to implement these POS recommendations, taking into account the jurisdiction’s regulatory regime.**

EU legislative texts such as the draft regulation on KIDs have to be applied by Member States within a predefined time period and usually contain clear rules on sanctions for breaches. They could serve as a model for cross-sectoral approaches in an international environment.

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