

SWEDISH SECURITIES DEALERS ASSOCIATION

The European Commission
DG Internal Market and Services

Via email markt-prips-consultation@ec.europa.eu

Stockholm January 31, 2011

SSDA response to European Commission Consultation on legislative steps for the Packaged Retail Investment Products initiative

The Swedish Securities Dealers Association (SSDA, register id 7777147632-40) represents the common interest of banks and investment firms active on the Swedish securities market. The mission of SSDA is the maintaining of a sound, strong and efficient securities market in Sweden. SSDA promotes members' views with regard to regulatory, market and infrastructure related issues. It also provides a neutral forum for discussing and exchanging views on matters which are of common interest to its members.

SSDA has a close cooperation with other trade associations in Sweden, the Nordic area and Europe.

General Comments

The SSDA welcomes the opportunity to respond to the consultation on legislative steps for the Packaged Retail Investment Products initiative.

The SSDA supports the initiative to harmonize and simplify the product information regarding PRIPs even if we definitely cannot agree with the description of a collapsed retail investor confidence.

We believe it is important to bear in mind that PRIPs have made it possible for retail investors to invest in new markets and new products, with less risk and to less cost compared to making direct investments. PRIPs are therefore a very important alternative for retail investors when considering different investment products.

The SSDA and the structured products industry in Sweden have produced an industry code regarding information on structured product to investors, see enclosure 1. The code provides guidelines and a common minimum standard as to what shall be regarded as accepted industry practice, primarily with respect to the provision of information in marketing material concerning structured investment products on the primary market. The purpose is to strengthen investor confidence in the market for these products and improve comparability between different structured products and ensure a high standard of information. It is also an objective to produce information about the products that is easy to understand for retail investors. Our experience shows however the difficulties to produce such information in a concise way and we are concerned that a two-page KIID could in fact give investors less key information than they receive today and thus hide any eventual complexities of the product. KIID would

be the first step for an investor but it is important to take into account that the investor may need more information about the product before making the investment.

From a general perspective we would also like to emphasize the importance of making room for further and other initiatives to facilitate for well informed investment decisions.

Detailed comments

The SSSA refers to responses provided by the European Banking Federation with the following clarifications and additions.

1. The KIID should be the first introductory step in aiding the investor's decision making and for comparing different products/instruments, but before making the final investment decision the investor may need more detailed information that is included in the prospectus. In short, we believe that the KIID itself is not and cannot be designed to be the only document upon which an investment decision is taken. Why would we otherwise need the prospectus?
2. KIID and the prospectus requirements. KIID should not be considered as part of the prospectus for any reason. We agree that the requirement for key information in the summary prospectus could be deleted in case a KIID is to be developed for the instrument in question. We do not believe that the KIID shall replace the final terms nor to follow the formal requirements for a prospectus such as for passporting, registration and approval.
3. A clear definition of PRIP is very important. The definition should be so clear that there is no need for indicative lists – positive or negative. Adding to the comments from EBF, we would also like to point out the importance of the definition clarifying that so called taylor-made products (i.e. created for one or a limited number of investors) are not to be considered as PRIPs. One solution could be to use the same thresholds as in the prospectus directive, e.g. the products should be intended to be offered to more than one hundred retail investors.
4. Investor education is off course key for investors/clients to understand and evaluate different investment opportunities properly.

Kind regards

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INDUSTRY CODE

VERSION 2 – 22 FEBRUARY 2010

GUIDELINES REGARDING PROVISION OF INFORMATION WITH RESPECT TO STRUCTURED INVESTMENT PRODUCTS

1. BACKGROUND

"Structured investment products" is an umbrella term for financial instruments that are created through the issuance of a financial instrument with characteristics derived from other financial instruments, e.g. bonds incorporating the characteristics of options. Over the past decade, the primary market for structured investment products has grown from a niche market to a broad savings market. Internationally and in Sweden, volumes are invested in structured investment products on the primary market which are comparable to new savings in traditional fund products.

The crucial factor for the change in value of a structured investment product is the performance of one or more specified 'underlying' markets. When speaking of structured investment products in general, the reference is often to index-linked bonds and structured certificates. What is intended by this is a financial instrument the final economic outcome of which is linked to the performance of an underlying market such as an equities index or a basket of equities, commodities, currencies, other types of assets or combinations thereof.

In Sweden, structured investment products are issued on the primary market by several players. Some offers are public and extended to the general public, while others are focused solely on one or a small number of individual investors (referred to as Private Placements). The terms and conditions for the products and their financial parameters, as well as product information and the possibility of sale on the secondary market, vary between the different entities and the different types of offers.

The Swedish Securities Dealers' Association has produced this industry code together with a large number of the major players on the Swedish primary market for structured investment products who are members of the Association. The launching of this industry code is intended to further enhance clarity, quality in the provision of information, and transparency on the structured investment products market, and the code will be revised regularly as the market develops.

The guidelines regarding provision of information as set forth in this industry code apply in addition to the information requirements prescribed in laws, ordinances and regulations issued by the Swedish Financial Supervisory Authority regarding the content of prospectuses and marketing material.

2. PURPOSE

The industry code is intended to provide guidelines and a common minimum standard as to what shall be regarded as accepted industry practice, primarily with respect to the provision of information in marketing material concerning structured investment products on the primary market, and thereby strengthen investor confidence in the market for these products. It is thus of importance that the information concerning the products be formulated with the investor's best interests in mind. Accordingly, the information regarding the products' characteristics and risks, etc. must be comprehensible and easily accessible. The greatest possible transparency should be sought.

3. PLAYERS

The players active on the primary market for structured investment products are issuers, arrangers and distributors. A single player may assume one or more of these roles. In this industry code, the following definitions shall apply:

Issuer: The party which is the issuer of a structured investment product and prepares a prospectus and is thereby liable to make payment pursuant to the structured investment product's terms.

Arranger: The party which, on behalf of the Issuer, structures the structured investment product and/or formulates information in the marketing material regarding the product's characteristics and risks.

Distributor: The party which, on behalf of an Arranger, sells, markets or brokers structured investment products.

4. THE AMBIT OF THE INDUSTRY CODE

4.1 OFFERS

The industry code covers structured investment products which are offered to the general public and where there is a legal requirement to prepare a prospectus pursuant to Chapter 2 of the Financial Instruments Trading Act (1991:980).

Where appropriate, the industry code also covers situations where there is no legal requirement to prepare a prospectus but where the offer is extended to non-professional investors.

4.2 PLAYERS

A member of the Swedish Securities Dealers' Association which is an Arranger of structured investment products shall actively endeavour to ensure that the activities conducted by the Arranger, and which the industry code is intended to govern, are conducted in compliance with the code. In the event the Arranger also acts as Issuer, it should comply with the industry code also in the role of Issuer. In order that the purpose of the industry code might be attained, the Arranger should, in turn, impose clear demands on Distributors that all relevant information pursuant to this code reaches investors, and thereby ensure compliance with requirements. A Distributor which in certain respects provides any of the services incumbent on the Arranger shall be considered an Arranger in all respects.

5. PRODUCT TERMINOLOGY

In order to increase comparability between different structured investment products, an Arranger should endeavour to ensure that, where deemed appropriate, reference is made to the appended glossary, appendix 1. The Swedish Securities Dealers' Association intends to ensure that this glossary is available on its website, www.fondhandlarna.se. The Arrangers shall endeavour to update the glossary regularly.

6. INFORMATION REGARDING STRUCTURED INVESTMENT PRODUCTS

This section provides guidelines as to which information relating to structured investment products should be provided in the marketing material. For the purpose of this industry code, marketing material refers to a product brochure or similar describing the investment's characteristics and risks. The marketing material should contain a description of the terms and conditions and risks of which an investor must be aware in order to make a well-balanced investment decision. If the information is not provided in the marketing material, the material should state where the information is available. Furthermore, where it appears to be relevant, an Arranger should provide information in the marketing material regarding the glossary of defined terms referred to in section 5.

In compliance with Chapter 2, section 33 of the Financial Instruments Trading Act, the marketing material must correspond in terms of content to the content of a basic prospectus and final terms.

6.1 INFORMATION REGARDING THE PRODUCT'S CHARACTERISTICS IN CONNECTION WITH AN ISSUE

The structured investment product's characteristics should be described in a manner which can be understood by the average non-professional investor. The description should contain information regarding the identity of the Issuer and, where appropriate, the structured investment product's face value, term, and how the repayment amount including the yield will be calculated, as well as the degree to which the product is capital-protected.

6.2 UNDERLYING ASSETS

Underlying assets, including relevant indices, which constitute the calculation basis for the yield on a structured investment product, should be described in a manner which can be understood by the average non-professional investor. In the event information or transparency concerning the underlying asset is limited, this fact should be stated, as well as in the case the available historical data regarding the asset's performance is limited.

6.3 FINANCIAL TERMS

The finally determined financial terms for a structured investment product in the form of, e.g. participation rate, coupons, average calculations and barriers should, where relevant, be presented in a manner which can be understood by the average non-professional investor.

If the product is sold at a premium to par, clear information should be provided as to what this entails.

6.4 RISKS

The attention of the investor should be clearly drawn to the risks associated with the specific product. To the extent appropriate, the following risks should, for example, be clearly stated: price risk, credit risk, liquidity risk, market risk, price volatility risk, interest rate risk and exchange rate risk. It is of particular importance that the investor be clearly informed regarding the credit risk he/she assumes with respect to the Issuer.

The risks should be described in such a manner that they can be understood by the average non-professional investor.

6.5 LOAN FINANCING AND OTHER PERIPHERAL SERVICES

To the extent structured investment products are marketed together with loan financing or other peripheral services, the investor should be clearly informed regarding the aggregated risks.

6.6 YIELD VERSUS RISK

Information regarding risk and yield should be clearly formulated. This means that the effect of the selected yield structure should be presented separately and the description of risk versus yield potential should be balanced. Adjustments of an index in the form of built-in fees, excluded yield or suchlike should be reported. Other components such as maximum yield, incorporation of additional credit risks, currency risks or other significant risks and the effect of similar changes on anticipated yield on the product should be clearly described. Estimations of the yield potential should be based on conservative and clearly stated assumptions. Examples of yield percentage should be calculated in relation to the invested amount including commission and other related selling charges, i.e. expressed in the form of effective annual yield.

Possible scenarios that are relevant for the product should be presented to the investor.

Information which is based on historical results, simulations, and forecasts should include a warning that such results do not constitute a reliable indication of future results.

6.7 FEES/COSTS

The marketing material should clearly state the amount of the maximum arranger fee and commission. The arranger fee shall, among other things, cover costs for risk management, production and distribution. Where appropriate, the maximum arranger fee should be presented as an annualised cost with information that the calculation is based on the assumption that the product is held until maturity. The calculation of the arranger fee should be based on market terms. The commission should be stated separately.

6.8 SECONDARY MARKET

In the case of issues which are directed to more than one hundred potential investors, information should be provided that, assuming normal market conditions, during the term of the product the Arranger or another party intends to regularly quote bid prices and, where possible, ask prices. If the continuity and liquidity on the secondary market can be expected to be below normal, this should be specifically stated.

If exceptions are made from the aforementioned guidelines regarding price quotations, the investor should be clearly informed thereof.

Information should also be provided that if a capital-protected structured investment product is sold prior to the maturity date, this will take place at the prevailing market price, which may be lower or higher than both the originally invested amount and the face value.

6.9 COMPLIANCE WITH THE CODE

An Arranger may, in the marketing material, state whether the information complies with the guidelines set forth in this industry code.

If parts of the code cannot be complied with, for instance because there are no historic data for a new index, an Arranger may still state in the marketing material that the information provided about the offer complies with the guidelines of the industry code. However, it should be made clear that it is not possible to comply with that particular requirement.

6.10 COMPLETE INFORMATION

Information should be provided in the marketing material that complete information regarding the Issuer and the offer can only be obtained by reading the base prospectus and the final terms.

7. INFORMATION REGARDING TERMS

The identity of the Issuer of a structured investment product should be clearly stated on account statements, valuations and on the website or in another way which is easily accessible for the investor. Investors and the general public should be able to easily obtain the finally established terms, during the term and after the expiry of the term, so that a transparent and serious review of different offers may be carried out. After expiry of the term, calculations of the final repayment amount should be made available upon request for at least five years after the repayment date.

8. ADOPTION OF INDUSTRY CODE

An Arranger who complies with this industry code may state such fact on its website or announce it in another appropriate manner such that it is made known to the general public.