TISA Response to FinDatEx consultation on EMT V4.4

TISA welcomes the FinDatEx consultation on proposed changes to the European MiFID Template (EMT) to support UK industry requirements. These changes are required following the Financial Conduct Authority's reforms to pre-sale disclosure under the UK Consumer Composite Investments (CCI) regime and its proposed changes to MiFID post-sale disclosure requirements.

TISA is a not-for-profit membership organisation and a trusted partner of key industry stakeholders in helping shape the future of the UK financial services and the environment in which we operate. We have over 260 member firms involved in the supply and distribution of savings and investment products and associated services.

Request for new fields – The treatment of Closed-Ended Investment Trusts

Where the Product Summary for CCIs includes the costs from any investment trust holdings, we recommend that this cost information is included in the EMT 4.4. We note the current proposal is to retire the corresponding section in the EMT (which was previously added in v4.1). There doesn't appear to be another machine-readable format which caters for this currently.

It is important that close ended investment funds (CEIFs) are treated distinctly in respect of disclosure of costs and performance under the EMT, in order to reflect their distinct treatment under the CCIs regime. In order to enable compliance with the UK regulatory regime in respect of CEIFs, we recommend that the following changes are made to the EMT v4.4 template:

1. Add an instrument-level field identifying whether the financial instrument is a CEIF or not.
2. Revise data point 12020 so that it identifies whether the ongoing cost is paid by the investor from their holding in the investment and disclosed to them, or whether it is a CEIF with disclosable ongoing costs/operating expenses.
3. Add a separate field for CEIF ongoing costs or expenses.
4. Allow the manufacturer to specify the terminology used for the headline ongoing cost or expense disclosure in the Product Summary.
5. Add a specific CCI authorisation-status category for listed CEIFs.

Regulatory Underpinning

The distinction between the ongoing costs of open-ended funds and the ongoing costs/operating expenses of CEIFs is fundamental to ensuring that investor information is clear, fair and not misleading. Open-ended funds ongoing charges are borne by investors that hold units in the fund. By contrast CEIFs incur costs, otherwise known as operating expenses, which are paid by the CEIF, not by the shareholders of the CEIF.

The EMT must preserve this distinction so that manufacturers of both open-ended funds and CEIFs can upload information accurately, and that on receipt distributors can continue to maintain this distinction.

CEIF costs and expenses are subject to distinct treatment under the UK CCI and proposed UK MiFID disclosure requirements:

- CCIs requirement: where a CEIF is held within the portfolio of another CCI, the CEIF's ongoing costs / expenses are not aggregated into the ongoing costs figure of the investing CCI. This differs from the

treatment of other fund structures, principally open-ended funds, whose ongoing costs are included in that calculation.

- UK MiFID requirement: CEIF's ongoing costs / expenses are excluded from the investment cost included within the aggregated total cost figure. They are instead disclosed separately.

A single generic ongoing-cost field would not allow distributors to apply these different treatments reliably. The EMT must identify both the instrument as a CEIF and the corresponding CEIF amount.

CEIFs are also subject to specific performance disclosure requirements. For a CEIF whose shares are listed on a public stock exchange, the Product Summary performance chart must show both:

- the change in net asset value per share; and
- the change in the share price.

An instrument-level CEIF identifier is therefore required for performance disclosure as well as cost disclosure.

Requests for Clarificatory Notes

We note that it is FinDatEx's approach to label all country-specific EMT files as "optional". We would welcome FinDatEx providing some explanatory information upfront, noting that all manufacturers of CCIs that are distributed in the UK must complete all relevant fields of the EMT 4.4. TISA members have raised concerned that some manufacturers, specifically non-UK, distributing in the UK may not otherwise realise which sections to complete.

We would welcome a clarificatory note being added to Field 12110_Risk_Tolerance_CCI_Methodology_UK to make clear that the risk and return score is the "final" risk score. Given it is possible for manufacturers to adjust risk and return scores, we think it would be helpful to clarify that field 12110 should contain the risk and return score as published in the CCI's Product Summary, rather than being a pre-adjustment score.

Field 09010_Financial_Instrument_Transaction_Costs_Ex_Ante_UK : we would welcome a clarification being added to specify that that the reporting period for transaction costs needs to be taken from 12030 and not 07130. Similarly for Field 09020_Financial_Instrument_Transaction_Costs_Ex_Post_UK, it should be clarified that the reporting period for transaction costs needs to be taken from 12130 and 12140 and not 08090/08100.