

# PRIIPs Regulation – FCA Consultation



28 September 2018

To: [PRIIPsCfl@fca.org.uk](mailto:PRIIPsCfl@fca.org.uk)

## Introduction

The British Property Federation (BPF) represents the commercial real estate sector. We promote the interests of those with a stake in the UK built environment, and our membership comprises a broad range of owners, managers and developers of real estate as well as those who support them. Their investments help drive the UK's economic success; provide essential infrastructure and create great places where people can live, work and relax.

As such our membership covers a range of property developers, REITs (Real Estate Investment Trusts) and investment funds – some of whom will be manufacturers of products and therefore clearly covered by the PRIIP regulations.

Our comments in this submission focus on the issue of scope and in particular whether REITs are covered by the regulations (paragraph 2.11 of consultation).

## What are UK REITs?

Before considering the extent to which the PRIIPs Regulation may or may not apply to UK REITs, it is worth considering what UK REITs are.

While the acronym stands for 'Real Estate Investment Trust', the second two terms are a misnomer. UK REITs are in fact 'normal' companies limited by share capital. A more accurate term for REITs (though impossible to turn into an acronym) would be "a company or group of companies whose main activity is to own, manage and develop property, which by virtue of meeting certain conditions set out in tax law, is exempt from corporation tax on its property-related business".

In the UK, being a REIT is primarily about how a business is treated for tax purposes (the REIT rules can be found in Part 12 of the Corporation Tax Act 2010) and is not a clear indication of how it might be treated for regulatory purposes.

In other words, because REIT status is primarily about how a business is taxed, it is (subject to a business meeting the relevant conditions) relatively blind as to how it operates or what sort of relationship it has with its investors. This means that businesses that are clearly funds and businesses that are clearly not funds can both claim REIT status.

## UK REITs and the PRIIPs Regulation

Paragraph 2.6 of the consultation states that in deciding whether a product is covered by the PRIIPs regulation, the general approach is that:

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*“Manufacturers of retail investment and insurance products, and persons advising on or selling those products to retail investors, are responsible for assessing which products are within the scope of the PRIIPs Regulation”.*

Given our comments about the flexibility of the UK REIT regime to apply to both funds and non-funds, the approach in paragraph 2.6 of the consultation seems very reasonable to us. Indeed, we understand that in the months since the Regulation came into effect, distributors/advisors are either coming to an agreed view on whether individual REITs are PRIIPs or they are contacting REITs themselves for further clarification. This case-by-case approach is in our view the fairest one and we do not think it is necessary (or technically correct) for the FCA to apply a blanket approach to whether REITs are covered by the regulations. It should be left to individual REITs to judge whether they are covered on a case by case basis.

We look forward to discussing our comments with you in more detail. Please do not hesitate to get in touch if you require further information:

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