

PRIIPs Regulation

Reference Text: Proposal for a regulation on key information documents for **Packaged Retail and Insurance-based Investment Products**

Link : http://ec.europa.eu/internal_market/finservices-retail/docs/investment_products/20120703-proposal_en.pdf

Presentation

On 3 July 2012 the Commission adopted a proposal for a regulation for a new Key Information Document (KID) to be produced by investment product manufacturers and provided to retail customers when they are considering buying investment products. It aims to enable retail investors to understand and compare the key features and risks of the PRIIPs.

The PRIIPs Regulation applies to the manufacturers and persons advising on or selling.

Targeted products and exemptions

- **Packaged retail investment product** means an investment, including instruments issued by SPVs, where, regardless of the legal form of the investment, the amount repayable to the investor is subject to fluctuations because of exposure to reference values or to the performance of one or more assets which are not directly purchased by the investor.

- **Insurance-based investment product** means an insurance product which offers a maturity or surrender value and where that maturity or surrender value is wholly or partially exposed, directly or indirectly, to market fluctuations.

- **Exemptions:** non-life insurance products, life insurance contracts where the benefits provided by the contract are payable only in the event of death or disability due to an accident, illness or disability, deposits other than structured deposits and securities, officially recognised pension schemes, retirement products recognised by national law as having the primary objective of providing the investor with income in retirement, individual retirement products for which an employer's financial contribution is required.

Drawing up the KID: before placing a retail investment product on the market, the investment product manufacturer shall draw up a KID and publish the KID on its website. Member States may require the initiator to notify the document in advance to the competent national authority.

Form and content of the KID: before a binding agreement is made, the retail investor shall receive a KID of a maximum of three A4 pages allowing them to take an informed decision and to compare retail investment products as well as insurance products.

The KID shall be accurate, fair, clear and not misleading. It shall be a **stand-alone document, clearly separate from marketing materials**, and be compatible with any binding contractual document.

Information to be included (among other):

- the **name** and address of the initiator, information relating to the relevant national authority and the date of the documents
- a notification of **specific environmental or social outcomes** targeted by the investment product, as well as the way in which performance is measured
- a description of the **types of investors** for whom the investment product is intended, especially in terms of risk appetite and investment horizon

- a brief description of the **risk and reward profile** of the investment product, including for example, the maximum possible loss of invested capital
- a brief description outlining, in the event of the initiator being unable to make the payments covered, whether the investment product is covered by a compensation scheme
- the required minimum holding period and cashing in early
- information about how and to whom a client can make a claim

Complex products: some of the investment products covered by the scope of the regulation are not simple and may be difficult for investors to understand. This is why Parliament has ensured that investors receive, when necessary, the following notice, **“You are about to purchase a product that is not simple and which may be difficult to understand”**.

Responsibility in the case of losses: : the text foresees that if a retail investor shows that they suffered a loss through the use of the KID by investing in the retail investment product for which the KID was produced, this retail investor can **seek redress** from the initiator of the investment product for this loss, under the provisions of national law.

Complaints: the retail investors shall have an effective way of submitting a complaint against the initiator of an investment product based on insurance. Effective redress procedures shall also be available to retail investors in the event of cross-border disputes.

Penalties: the competent authorities designated by the Member States shall have the power to impose penalties such as the suspension or prohibition of the sale of a product, by publishing a public notice and imposing administrative fines of at least **EUR 5 000 000 or at least 3% of annual turnover** in the case of a moral person or a maximum amount of at least **EUR 700 000** for individuals.

Application to UCITS/AIF: according to the Regulation Level 1, **the funds that produce a KIID UCITS have an exemption period until 31 December 2019** to produce the KID PRIIPS.

According to the project of level 2 published on 7 April 2016, this transitional period does not apply for funds that have an underlying investment option of a unit-linked insurance product.

Current situation:

- 20/12/2012: Publication of P. Bérès draft report
- 24/06/2013: Adoption by the Council of its general approach
- 21/10/2013: Vote in ECON
- 21/11/2013: Partial vote in plenary
- 29/01/2014: 1st Trilogue - 20/3/2014: Last Trilogue
- 15/04/2014: Adoption by the EP
- 30/07/2014: EC Mandate sent to EIOPA for advice on possible delegated acts
- 10/11/2014: Formal adoption by ECOFIN
- 27/11/2014: The Joint Committee of the three European Supervisory Authorities (EBA, ESMA and EIOPA - ESAs) published a discussion Paper for the RTS under articles 8, 10 and 13 (see position Document) – Responses by 17 February 2015.
- 9/12/2014: Publication in OJ UE - Application period: 24 months (= 31 December 2016)

- 23/06/2015: Release of a technical discussion paper on Article 8-5 (risks, performance and costs) on some RTS such as calculation method of risk indicator and costs borne by the investors.
- 29/01/2016 : Answer to the consultation published on 11 November 2015: Joint Consultation Paper draft on RTS:
- 07/04/2016 : the ESA have published the level 2 measures dated 31 March 2016 : “Final draft regulatory technical standards with regard to presentation, content, review and provision of the key information document, including the methodologies underpinning the risk, reward and costs information. » proposals in Relation to the presentation and content of the KID (risk indicators, costs), revision of the KID, timing of publication of the KID.
- 30/06/2016: The European Commission has adopted the RTS.
- The press release published on 30/06/2016 giving the information that the European Commission has adopted those RTS, says that the European Parliament and the Council have a two-month scrutiny period, which they can extend for a further month.
- 01/09/2016: The European Parliament’s economic and monetary affairs committee, known as ECON, voted in favor of rejecting the RTS.

Next steps :

- The ECON motion will now go to a full plenary of the wider European Parliament vote by mid September and the Parliament must either support or reject this motion.
- 31 December 2016: Entry into application of PRIIPS Regulation. It is important to note that rejection by ECON does not delay, at this stage, this date.

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