

PRIIPS REGULATION

Regulation 1286/2014 on key information documents for **Packaged Retail and Insurance-based Investment Products**

1. Overview

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:

- **Packaged retail investment product** means an investment 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 this document 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 document
- 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 and investment funds which already produce a KIID (Key Investor Information Document):
Those funds have an exemption period until 31/12/2022

2. Chronology of events: key dates

- ✓ 20/12/2012: Publication of draft report (European Parliament)
- ✓ 15/04/2014: Adoption by the European Parliament
- ✓ 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, the ESAs (EBA, ESMA and EIOPA) published a Discussion Paper that focuses on the different sections of the KID such as “what are the risks?” and “what are the costs?” (answer on 17/02/2015).
- ✓ 9/12/2014: Publication of Level 1 in the Official Journal (application period: 24 months, so initially 31/12/2016)
- ✓ 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.
- ✓ 11/11/2015: The ESAs published a Joint Consultation Paper related to the content and the presentation of the KID PRIIPS (answer on 29/01/2016)
- ✓ 07/04/2016: the ESAs published a project of RTS - level 2 measures - dated 31/03/2016 : “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 EC has adopted the RTS. The press release said 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, ECON, voted in favor of rejecting the PRIIPs RTS.
- ✓ 14/09/2016: The European Parliament voted also in favor of rejecting the PRIIPs RTS.
- ✓ 09/11/2016: EC has proposed one-year-delay to PRIIPs implementation. PRIIPs will be applicable as from 01/01/2018 according to this proposal. As Level 1 of PRIIPs regulation was modified, this proposal had to be formally adopted by the European Parliament and then by the Council. The Parliament voted on 01/12/2016 in favor of this proposal and the Council did the same on 08/12/2016.
- ✓ 10/11/2016: EC submitted amendments to the ESAs for comment. Those amendments were notably related to Multi-option PRIIPs, performance scenarios and comprehension alert.

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- ✓ 22/12/2016: The ESAs wrote a letter to the Director General for financial stability of the EC to reject the proposed amendments. The ESAs explained that the amendments relating to how performance scenarios will be presented in the KID “raise comprehension issues and may be misleading”. The ESAs said they were nevertheless ready to work further on these amendments.
- ✓ 23/12/2016: postponement of PRIIPS application date to 01/01/2018 published on the Official Journal
- ✓ 08/03/2017: Publication by the EC of revised RTS (Regulatory Technical Standards) supplementing the PRIIPs Regulation. Those new RTS replace the previous ones published on 30/06/2016 and rejected by the European Parliament on 14/09/2016.

The revised RTS main amendments concern:

- **Performance scenarios:**

The KIDs PRIIPs now contains a fourth scenario, so-called “**stress scenario**” along with the favourable, moderate and unfavourable scenarios that were already included in the previous version of the RTS.

This stress scenario shows what an investor may get back in extreme market circumstances.

- **Multi-option products:**

Treatment of multi-option PRIIPs been clarified.

According to the new RTS, PRIIPs manufacturers will have **the option** to use the UCITS KIDs to provide specific information related to underlying investment options for MOPs until 31/12/2019.

However, this exemption remains partial as additional information will have to be provided to insurers in the scope of MOPs.

- **Comprehension alert:**

aligned with MIFID II and IDD (Insurance Distribution Directive) complexity definitions.

- ✓ 12/04/2017: Publication in the Official Journal of Delegated Regulation (UE) 2017/653
- ✓ **07/07/2017: the European Commission published a Communication providing “Guidelines”** on the application of the Level 1 of PRIIPs Regulation. They do not contain new legal rule but seeks to further facilitate the implementation of PRIIPs.
- ✓ The “Guidelines” cover topics such as:
 - definition of PRIIPs manufacturer
 - products covered by the PRIIPs Regulation
 - products made available to retail investors
 - multi-option PRIIPs (MOP)
 - territorial application
 - competent authority
 - translations of key investor information documents (KIDs)
- ✓ 18/07/2017: Q&A update, a Flow Diagram for the calculation related to the Summary Risk Indicator and the Performance Scenarios was also released

The Q&A covers notably the following items:

- General topics
 - market risk assessment
 - methodology for assessing credit risk
 - summary Risk Indicator
 - performance Scenarios
 - derivatives
 - methodology for the calculation of costs
- ✓ 20/11/2017: Q&A update (on general topics, Market Risk Assessment, performance scenario, derivatives, multi-options products)
 - ✓ **01/01/2018: Entry into force of PRIIPs regulation**
 - ✓ 19/07/2018: Q&A update (on general topics, methodology for calculation of costs)

and update to the Flow diagrams for the risk and rewards calculations (new calculation for performance scenario)

- ✓ 08/11/2018: ESAs consultation (answer on 06/12/2018) on targeted amendments to PRIIPs Regulation:
 - proposal to include information on past performance (in line with the UCITS approach)

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- modification of narrative explanations to reduce the risk of investors misunderstanding the performance scenario
- changes that need to be made to the PRIIPs regulation, to take into account the exemption expiry from 1 January 2020

✓ 03/12/2018: Parliament ECON Commission voted amendment proposals which aims: to postpone by one year the deadline for the review of PRIIPs Regulation, from 31/12/2018 to 31/12/2019 and to extend by two years the exemption period for UCITS from PRIIPs regime, from 31/12/2019 to 31/12/2021

✓ 05/02/2019: Political agreement from co-legislators: to delay the PRIIPs review to 31/12/2019 and to extend the temporary exemption of UCITS from the PRIIPs Regulation until 31/12/2021. Final text to be finalized and adopted by the Parliament and the Council

- ✓ 08/02/2019: The ESAs decided not to propose targeted amendments at this stage. Instead, a more comprehensive review of the PRIIPs framework will take place in 2019, preceded by a new consultation phase.
- ✓ 16/04/2019: The Parliament adopted amendments to postpone end of exemption period for UCITS and Council adopted them on 14/06/2019
- ✓ 12/07/2019: Text published in the Official Journal of the EU in the framework of "Cross-Border Fund Distribution Regulation which endorse:
 - a 1-year extension of the PRIIPs review period to end of 2019 and
 - a 2-year extension of the application of PRIIPs to the UCITS KIID to 31 December 2021
- ✓ 16/10/2019: Consultation on PRIIPs review launched by the three ESAs (ESMA, EIOPA, EBA), answer was due before 13 January 2020.

The Consultation proposes amendments to the PRIIPs KID RTS (Level 2) and addresses the following topics:

- Performance scenarios: the methodology for performance scenarios, with an alternative to present illustrative performance scenarios and a proposal related to past performance information
- Costs: different options to change the methodologies to calculate costs and how their presentation and
- Multi-option products (MOPs): proposals to deal with PRIIPs offering a range of options for investments

The Consultation also make proposals for the application of PRIIPs Regulation to UCITS when the temporary exemption for UCITS end (on 31 December 2021).

- ✓ 21/01/2020: publication by ESMA of responses to October 2019 consultation paper on PRIIPs KID
- ✓ 21/07/2020:
 - ESAs sent a letter to inform the European Commission they are not in a position to submit draft RTS to amend PRIIPs Delegated Regulation as they were not adopted by all three ESA Boards. One of reasons was that a partial revision of the Delegated Regulation is not appropriate at this stage, prior to a comprehensive review of the Level 1 of PRIIPs Regulation.
 - As a result, the ESAs Final Report was published in draft only, ie. not approved (ref. JC 2020 06 – 30 June 2020). For transparency purposes, this document was attached as an annex to the ESAs letter.
[ESAs Draft Final Report following consultation on draft RTS \(Not approved\)](#)
[ESAs Letter to the Commission on 21 July 2020](#)
- ✓ 03/02/2021: EIOPA's Board of Supervisors agrees on changes to the PRIIPs key information documents and the ESAs submitted to the European Commission draft Regulatory Technical Standards (RTS)
[ESAs Draft Final Report including draft RTS](#)
- ✓ 10/05/2021: Letter from the Commission to the Parliament and the Council indicating the Commission will extend end of exemption for UCITS funds from PRIIPs and the application of the new RTS from 1/01/2022 to 1/07/2022
- ✓ 15/07/2021: Commission [Consultation on PRIIPs](#) proposing the extension of the exemption period for the UCITS KIID from the PRIIPs regulation until 30 June 2022, instead of 31 December 2021.
 - Deadline to answer: 9 September 2021
 - The new timeline proposed aims to give the industry more time to be ready for the transition from UCITS KIID to PRIIPs KID
- ✓ 07/09/2021: Commission adopted the draft RTS. According to the Commission proposal, the regulation would take effect on 1 July 2022.

- ✓ 23/11/2021: The European Parliament voted to extend the exemption for UCITS for PRIIPS and to postpone the implementation date of the revised PRIIPs RTS to 1 January 2023.
- ✓ 17/12/2021: Updated Q&A published by the ESAs on:
 - general topics
 - market risk assessment - product categories
 - performance scenarios
 - costs of PRIIPs other than investment funds
 - presentation of costs
- ✓ 20/12/2021: publication in the Official Journal of:

A [Directive](#) (EU) 2021/2261 amending UCITS Directive so that from **1 Jan 2023** a UCITS can produce a PRIIPs KID, to be implemented by Member States by 1 July 2022

A [Regulation](#) (EU) 2021/2259 amending PRIIPS Regulation so as to extend the UCITS exemption to **31 Dec 2022**

A [Regulation](#) (EU) 2021/2268 amending PRIIPs RTS, will apply initially from **1 July 2022**

- ✓ 17/03/2022: The European Commission has put forward a [proposal](#) to delay amendments to the PRIIPs Level 2 RTS so these will now apply from 01/01/2023 rather than 01/07/2022 as originally envisaged.
As a reminder, the amendments to the PRIIPs Level 2 RTS are set out in the [Regulation](#) of 20 December 2021.
- ✓ **Next step:** The European Parliament and Council of the EU will need to endorse the March Commission's proposal.
- ✓ **Future PRIIPS review:**

The Commission will initiate a review of the level 1 of PRIIPs, based notably on ESAs Call for evidence on PRIIPs, published on 21/10/2021:

https://www.esma.europa.eu/sites/default/files/library/jc_2021_61_priips_call_for_evidence.pdf

This Call for evidence was opened until 16/12/2021 and was asking for views on:

- The practical application of the existing KID
- The scope of the PRIIPs Regulation
- Performance scenarios and past performance

✓ **Reference texts and documents**

Level 1:

[Regulation \(EU\) 1286/2014](#)

Amended by [Regulation \(EU\) 2021/2259](#)

[Guidelines on the application of the Level 1](#)

[Flow diagrams for the risk and rewards calculations new calculation for performance scenario](#)

Level 2 measures (RTS):

[Delegated Regulation \(EU\) 2017/653](#)

Amended by [Regulation \(EU\) 2021/2268](#)

Questions and Answers: [Q&A](#)

Consultation: [Call for evidence Oct 2021](#)