

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/AIF: according to the Regulation Level 1, **the funds that already produce a KIID UCITS have an exemption period until 31/12/2019** to produce the KID PRIIPS.

According to the first project of Regulatory Technical Standards (RTS or Level 2 measures) published by the Commission on 07/04/ 2016, the transitional period for UCITS/AIF would not apply for funds that have an underlying investment option of a unit-linked insurance product. Those funds would need to be ready for PRIIPS from the coming-into-force date. This item has been modified in the amended version of the RTS published on 8 mars 2017 by the Commission.

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.
- ✓ 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 KIIDs 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)
 - 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 31/12/219 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.

- ✓ 08/02/2019: The ESAs sent draft RTS to the Commission to amend the Delegated Regulation to extend the exemption period date also for MOPs (Multi Option Products). These RTS need to be endorsed by the Commission followed by a scrutiny period

- ✓ 16/04/2019: The Parliament adopted amendments included in "Cross-Border fund distribution" related to:
 - a 1-year extension of the PRIIPs review period and
 - a 2-year extension of the application of PRIIPS to the UCITS KIID

- ✓ 14/06/2019: Amendments adopted by Council

The legislative texts will enter into force 20 days after their official publication in the OJ, and in light of the 24 months transposition period the current expectation is that the new regime will go live in 2021.

- ✓ **2019**

ESMA intends to launch a **public consultation** in the third quarter of 2019 and **will propose new RTS to broaden the scope of review** of PRIIPs Delegated Regulation

3. Reference texts

[Level 1](#)

[Level 2](#)

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

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

[Q&A](#)

[General information on PRIIPS](#)

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