



EUROPEAN COMMISSION

Directorate-General for Financial Stability, Financial Services and Capital Markets Union

Director General

Brussels, 06. 07. 2018  
FISMA C4 SG/AH/mp(2018)3988213

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**Subject: Request to the ESAs to develop guidance on facilitating the production and distribution of information on investment funds as of 1 January 2020**

Dear Chairmen,

The PRIIPs Regulation 1286/2014, applicable as of 1 January 2018, provides in Article 32(1) for a temporal exemption for management and investment companies and persons advising on, or selling, UCITS from the obligation to produce and provide PRIIPs key investor documents (hereinafter, PRIIPs KID) in their dealings with retail investors. This exemption ceases to apply on 31 December 2019. The exemption also applies to non-UCITS funds in Member States which extend the application of UCITS rules on the format and content of the UCITS key investor information (hereinafter, UCITS KIID) to non-UCITS made available to retail investors.

Pursuant to Article 33(1) of the PRIIPs Regulation, the overall review of the PRIIPs Regulation should *inter alia* assess by 31 December 2018 whether the transitional arrangements for UCITS and relevant non-UCITS should be prolonged or whether the provisions on the UCITS KIID should be replaced by or considered equivalent to the PRIIPs KID.

As the application date of the PRIIPs Regulation was deferred by 1 year, the timing of the overall review will need to be also deferred, to be able to collect robust evidence, data and information, and this will impact on the treatment of UCITS and relevant non-UCITS funds. In consequence, as of 1 January 2020 UCITS and relevant non-UCITS funds will draw up and publish PRIIPs KIDs and UCITS KIIDs.

Against this background, as of 1 January 2020 retail investors will receive the PRIIPs KID and the UCITS KIID as well as information according to MiFID II, or where relevant, IDD disclosure obligations. However, this will only be temporary until the review of the PRIIPs Regulation is concluded.

The type and nature of the information to be provided to retail investors under these different disclosure regimes are very similar, though the calculation methodologies differ to some extent. As a result, the combined information through these three sets of disclosures, if read properly, should not be misleading to retail investors.

Given that manufacturers and persons advising on, or selling, UCITS or relevant non-UCITS will provide the PRIIPs KID, the UCITS KIID and, where relevant, information according to MiFID II or IDD to retail investors, the Commission Services would invite the ESAs to provide explanatory guidance to

- reduce the potential duplication of work for manufacturers and persons advising on, or selling, UCITS or relevant non-UCITS, by identifying the similarities and interconnections between the different methodologies and the resulting synergies that could be achieved;
- facilitate the reading and understanding of the information in the PRIIPs KID, the UCITS KIID and, where relevant, according to MiFID II or IDD by retail investors, including the interconnections between these different sets of disclosures.

When developing the explanatory guidance, the ESAs should consider in particular the following aspects:

- risk indicators: the methodologies are very close but some differences in the calculation of the PRIIPs summary risk indicator (SRI) and the UCITS synthetic risk reward indicator (SRRI), for example the different volatility buckets, might lead to a different risk measure.

Under Article 12 of the PRIIPs Delegated Regulation 2017/653 PRIIPs offering a range of options for investment already now use the PRIIPs SRI if they do not rely on the UCITS KIID information. No methodology on risk indicators is currently prescribed by MiFID II.

- performance scenarios: the forward looking approach under PRIIPs differs from the UCITS KIID disclosure (i.e. past performance scenarios).

The forward looking approach is based on the methodology for the calculation of the PRIIPs SRI so as to ensure consistency and allow for easy calculation of returns. MiFID II does not mandate the use of past performance or of a forward-looking approach. Therefore, investment firms are free to choose either, or both of them. Where an investment firm decides to show past performance, certain conditions must be met, as set out in Article 44(4) and (5) of Commission Delegated Regulation (EU) 2017/565. Where an investment firm chooses to show future performance, this information must comply with certain requirements in accordance with Article 44(6) of Commission Delegated Regulation (EU) 2017/565.

- costs: the PRIIPs synthetic cost indicator differs from the UCITS cost disclosure as to the type of costs considered and to the calculation methodology.

In accordance with Article 13(2) of Commission Delegated Regulation 2017/653, PRIIPs offering a range of options for investment already now use the PRIIPs cost methodology even though they are allowed to rely on the PRIIPs simplified methodology. MiFID II requires the same disclosure as PRIIPs with regard to the type of costs to be aggregated in the overall indicator. Level 3 guidance recommends PRIIPs calculation methodologies.

The Commission Services invite the ESAs to provide comprehensive explanatory guidance on the above aspects in order to facilitate the production and the distribution of information on investment funds after 1 January 2020 so as to ensure a proper understanding of the information made available to retail investors, facilitate the implementation of the disclosure regimes and foster supervisory convergence.

As already mentioned above, the overall comprehensive review of the PRIIPs Regulation, including the transitional arrangements for UCITS and relevant non-UCITS will be carried out at a later stage. Please note that the Commission Services will seek the ESAs' input at a later stage also in this regard.

Yours sincerely,



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