

PRIIPs Regulation: 2019 update

The EU Regulation on Key Information Documents for Packaged Retail and Insurance-based Investment Products (EU1286/2014) (the PRIIPs Regulation)

The PRIIPs Regulation came into effect on 1 January 2018. It is supplemented by a Delegated Regulation (2017/653) specifying the presentation and content of the PRIIP KID. It has become apparent that some of the technical PRIIPs legislative requirements are not suitable for all types of product required to produce a PRIIP KID. Industry participants have been lobbying for change and the European Supervisory Authorities (ESAs) and co-legislators have been working to make changes.

Final Report on targeted amendments

The ESAs published a final report on 8 February 2019 on targeted amendments to the PRIIPs KID following the consultation paper which issued on 8 November 2018. A summary of that consultation is set out below.

The ESAs decided not to propose targeted amendments at this stage. Instead a comprehensive review of the PRIIPs Delegated Regulation will take place in 2019.

A supervisory statement regarding performance scenarios was also issued. This is to promote consistent approaches and improve the protection

of retail investors prior to the conclusion of the review. If you currently produce a PRIIPs KID you will need to review it for compliance with the additional performance disclosures required.

On 3 December 2018, the European Parliament ECON committee proposed an amendment to the PRIIPs Regulation to provide for the 2019 review.

UCITS exemption

The proposed exemption for UCITS to 31 December 2021, has been approved. This is legislated for in the European Regulation on cross border distribution which came into force on 1 August 2019.

Summary of issues addressed in Consultation Paper

1

Potential amendments to be made to the PRIIPs Delegated Regulation to align it with the UCITS KIID Regulation and result in only one investor information document being provided by UCITS from 1 January 2022. This will also apply to non-UCITS funds offered to retail investors whose home member state currently requires those funds to produce a UCITS KIID.

2

Proposed amendments to the information regarding investment products' performance scenarios. The main issue that has been raised by European industry stakeholders since 1 January 2018 is that the performance scenarios risk providing retail investors with inappropriate expectations or an overly positive outlook about the possible returns they may receive.

3

Amendments concerning the presentation and content of the PRIIP KID, including methodologies for the calculation and presentation of risks, rewards and costs.

These amendments are not effective until the legislative process completes. The ESAs are working on the assumption that the European Commission and Council will ratify the amendments in Q1 2019.

UCITS considerations

One proposal in the consultation paper dealt with the unwelcome consequence that under the current legislative situation, from 1 January 2020 a UCITS should be required to produce a UCITS KIID and a PRIIP KID.

The UCITS exemption has now been extended to 1 January 2022.

A UCITS KIID must be provided to retail and to professional investors. The PRIIPs Regulation applies to products made available to retail investors. There is a working assumption that should UCITS be required to provide a PRIIPs KID to retail investors, the UCITS KIID may still be provided to professional investors. The consultation paper considered whether parts of the UCITS KIID Regulation should be included in

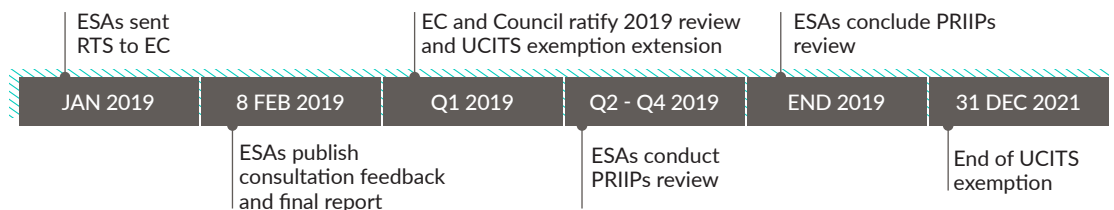
the PRIIPs Regulation. Another option, if the UCITS KIID regulation is retained (e.g. for the purpose of professional investors), would be to cross refer to it in the PRIIPs Regulation. These points will be considered further in the PRIIPs 2019 review.

What are the next steps?

The PRIIPs review in 2019 and extension of the exemption for UCITS have been approved.

The ESAs started work for the review of the PRIIPs Delegated Regulation during 2019. The intention is to propose new regulatory technical standards by the end of 2019. A further public consultation may issue in 2019.

The scope of the review will cover the issues raised in, and feedback from, the consultation, a broader look at the main aspects of the PRIIPs KID template and a more fundamental assessment of whether the overarching objectives of the PRIIPs KID have been achieved. It may be that in addition to amendments to the PRIIPs Delegated Regulation, changes to PRIIPs Level 1 Regulation may also be needed.



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