

Call for evidence on the European Commission mandate regarding the PRIIPs Regulation

Consultation response - Executive summary

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In Europe there are many PRIIPs that retail investors can purchase. In the area of structured products (PRIIPs) alone, there are more than 1.5 million of them. Regarding the use of the Key Information Documents (KIDs) to choose or compare between the products that banks offer to their clients, we believe that they do not play a role in product selection per se; there are other sources of information and the KIDs, which are designed for retail investors, are not suitable as a basis for product comparisons by the sales offices. For product approval purposes, the sales offices have designed separate technical solutions to obtain the required information. These tools allow, for example, the filtering of products according to certain product designs such as capital protection or certain underlings. However, there are individual contents of the KIDs that are used by the institutions for product selection. This includes, for example, the SRI, which is also used for the target market under MiFID II product governance.

Supporting the investment process: the KIDs are used in part to explain to customers during the advisory process how the product works or the risk associated with the product. With regard to other content (such as the often erroneous performance scenarios), investors often receive explicit advice not to use the figures presented as a basis for their investment decisions. Many institutions use supplementary product information, which contains further information about the products.

Complying with the PRIIPs Regulation: the costs of an individual KID can hardly be seriously estimated, as the KIDs are created on the basis of a general process and thus only the total costs are known. Large issuers report that setting up a process to create KIDs as of 1 January 2018 costs between 3 and 5 million euros (per house). Large issuers report that the cost of updating their KIDs costs over a million euros per year (for each house). Nevertheless, there are no significant discrepancies between the requirements of different national supervisory authorities, largely due to the detailed requirements provided by the ESAs, which ensure uniform supervisory practice. However, in individual cases, differing views on certain details have been reported. A critical view should also be taken of the requirement to provide ex ante notification to the relevant NCA set out in Article 5(2) of the PRIIPs Regulation, which can be applied by Member States. This results in an inconsistency. Since to date only very few Member States have made use of this option, retaining this provision should be critically reviewed as part of a Level 1 review.

Reviewing the scope: it should be made clear in the review that the scope of application of the PRIIPs Regulation is limited to investment products and that products which serve to hedge risks are not covered. In addition, the exemption for bonds with a make whole clause, for which the legislator introduced a waiver or product governance in the MiFID quick fix, should be extended to the PRIIPs Regulation.

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