

Packaged retail and insurance-based investment products (PRIIPs): key information documents

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The Committee on Economic and Monetary Affairs adopted the report by Pervenche BERÈS (S&D, FR) on the proposal for a regulation of the European Parliament and of the Council on key information documents for investment products.

The committee recommended that the Parliament's position adopted at first reading, following the ordinary legislative procedure, should amend the Commission proposal as follows:

The main amendments were as follows:

Subject matter: the Regulation lays down uniform rules on:

- **the format and content of the key information document (KID)** to be drawn up **exclusively** by the investment product manufacturers,
- **the annex** to the key information document;
- **the information** to be provided to retail investors by the persons selling investment products in accordance with [MiFID] and Directive of the European Parliament and of the Council on insurance mediation [IMD];
- uniform rules on the provision of those documents to retail investors.

The Regulation seeks to:

- enable retail investors to **understand and compare** the key features and risks of investment product;
- allocate **responsibility** to the product manufacturer for the key information document and to the persons selling investment products for the annex.

Scope: the Regulation should apply to the manufacturing and selling of investment products. However, it shall **not apply** to the following products:

- insurance products and securities which **do not offer a surrender value**;
- deposits other than structured deposits as defined in the MiFID;
- other securities which do not embed a derivative, **with the exception of corporate bonds and instruments issued by special purpose vehicles (SPVs)**;
- individual pension products for which a financial contribution from the employer is required by national law and where the employer or employee have no choice as to the pension product or provider;
- **officially recognised social security schemes** subject to national or Union law.

Definitions: the term '**investment product**' has been specified to mean a product through which a person can make a financial investment, regardless of the legal form and regardless whether the amount repayable is fixed or variable, including where an investment product is obtained through the direct holding of financial instruments, vehicles or holdings.

Drawing up the KID: the investment product manufacturer should draw up a KID in accordance with the requirements laid down in this Regulation and for each investment product it produces and should publish

the key information document, together with the prospectus, where relevant, on its website and on a single website to be created by the relevant ESA and the relevant national supervisory authority before the investment product can be distributed in the market and sold to retail investors.

It should be completed by **an annex**, where appropriate. The person selling the investment product shall complete the KID by drawing up and annex thereto. The investment product manufacturer shall be responsible for the contents of the key information document, the person selling the product shall be responsible for the annex and for passing the document on to the retail investor, and the person selling the product shall be responsible for the annex and for passing the document on to the retail investor.

Members propose the creation of a **product approval process** which should ensure that each investment product meets the needs of an identified consumer group and that the product manufacturer has undertaken an assessment of all likely risks relevant for the needs of the identified consumer group. Such an assessment shall include **stress testing** of the investment product. This process should also ensure that investment products that are already available on the market are **regularly reviewed** in order to ensure that the product continues to be compatible with the interests of the identified consumer group.

Form and content: the person selling an investment product should **provide the KID before a binding agreement is made** with a retail investor and free of charge. A paper copy shall be provided free of charge where the investment recommendation or the intermediary service is provided in person.

The document should:

- be accurate, **fair, clear and not misleading** and **not contain any product advertisements** or recommendation to invest;
- be a **stand-alone document**, clearly separate from, but not inferior to, marketing materials;
- clearly specify where and how to obtain additional information about the proposed investment, including where and how a **prospectus** can be obtained. A prospectus shall be made available on request and free of charge at any time, and the language in which such information is available to retail investors;
- be drawn up as a short document **written in a concise manner of a maximum of two double-sided A4 pages and an annex**.

This document should provide investors with key information to help them understand the **features, risks, costs, potential gains and losses** associated to it.

It should contain specific information such as (i) the holder of legal liability for the document (name and address); (ii) information about the intended consumer group of the product; (iii) a notification whether or not the investment product targets specific environmental, social or governance outcomes, including but not limited to reducing the carbon footprint; etc.

A complexity label should be created if a product is considered to be very complex, and may not be appropriate for all retail investors. It should be disclosed at the top of the first page of the key information document.

The **annex** to the KID should disclose the **identity** of the person selling investment products and also, where applicable, should specify: (a) an indication that national tax legislation of the investor's home

Member State may have a significant impact on the expected and actual return of investment; (b) the costs related to the investment product when he is the intermediary, including the commissions, retrocessions or other benefits related to the transaction paid by the manufacturer or a third party.

Liability and claims: where a person selling investment products has produced an **annex** to a key information document **which does not comply** with the requirements of this Regulation and on which a retail investor has relied when making an investment decision, such a retail investor may **claim**, from the person selling investment products, **damages for any loss** caused to that retail investor through the use of the annex and may, where appropriate, return the investment product and have losses refunded.

The product manufacturer shall be **liable** under civil law if a retail investor incurs losses resulting from their reliance on a KID that failed to meet the requirements of this Regulation. Such liability shall not be limited or waived by contractual clauses, or by way of approval of the competent authority.

Intervention: the European Supervisory Authorities (ESAs) should monitor investment products or financial instruments which are marketed, distributed or sold in the Union. In addition, investment product manufacturers should communicate the key information document of their investment product to the competent authority which regulates that product in the Member State where it is marketed, distributed or sold. Competent authorities should have, in accordance with national law, **all supervisory powers, including investigatory powers**, available to them as necessary to fulfil their duties under this Regulation.

Penalties: competent authorities would be able to impose penalties such as suspending or prohibiting the sale of a product, issuing a public warning and administrative fines of up to 10% of the investment product manufacturer's total annual turnover or up to EUR 5 000000 on individual persons.

Delegated acts: the report suggested that the Commission should be empowered to adopt delegated acts laying down guidelines for the development of Union criteria for social and environmental investment products. Before adopting the delegated acts, it should conduct consumer testing in order to select the most appropriate measures for retail investors. The Commission in close cooperation with the three European Supervisory Authorities shall also draw up sample key information documents that take into account the differences between investment products.