



silverfinch

PRIIPs
Guide

What you need to know

The Basics

What is the PRIIPs Regulation?

The PRIIPs (Packaged Retail and Insurance-based Investment Products) regulation is a new set of European Union-wide rules due to come into force in 2017. The regulation is intended to promote transparency in the sale of certain financial products by outlining a range of important disclosures – the central innovation is the introduction of the key investor document (KID), which has to be presented to a client in advance of any purchase. While the new rules do not change the way the investments are regulated, they do significantly change the interaction between the manufacturer and seller of the product and the end investor.

What kind of products does the PRIIPs Regulation cover?

It applies to a broad range of products, including insurance-based investment product, sold to retail investors.

What does the KID contain?

The document gives details of the product on offer to allow the investor to make an informed choice at purchase. Within its contents, it outlines product costs, future performance scenarios (unfavourable, moderate, favourable, and, in the case of insurance products, a threshold of covering the insured event) and categorises the level of risk in the product in a range of 1 through 7. Recent leaked changes to the RTS (Regulatory Technical Standards) suggest there will be a new “stressed” scenario, designed to show what could happen to the product under very tough conditions.

When are the rules due to come into force?

As the European Parliament’s Economic and Monetary Affairs Committee rejected the RTS for PRIIPs at the start of September, sending the timetable into disarray, the European Commission decided to delay introduction by a year to January 1 2018.



The Uncertainty

Is there still uncertainty around the RTS?

European regulations are introduced through various levels – the level I regulations outline the basics of how PRIIPs will work, and give a certain amount of information on what companies should be doing and how the framework will operate. Then there are the level II regulations, which comprise the RTS. While we have some details in what has been leaked, we still do not know how the RTS will be finalised, especially since there are plenty of opportunities for any draft new RTS to be amended in coming weeks.

Are there concerns about the effect of PRIIPs?

Some commentators have said they fear there will be a significant reduction in the number of products on offer because companies will be reluctant to sell anything unless they are sure they can provide a compliant KID for that product. Further, product manufacturers may limit the number of third parties they deal with; a wider range of suppliers increases the burden of verifying reliable product data. The extra year to prepare after the delay in introduction may alleviate some of these concerns.

What are the risks of a failure to implement PRIIPs correctly?

The manufacturers of these investment products are exposed on two counts: manufacturers face both civil liability and regulatory censure should the KID contain inaccurate or misleading information. As far as civil liability goes, this would be triggered by more than misleading or inaccurate KID contents; a retail client would have to prove material and demonstrable loss suffered as a result of the misinformation.

The penalties and parameters governing such an event will probably derive from the domestic law of each individual European Union country; the regulation does not specify any Europe-wide civil liability guidelines. However, the regulatory authorities need no such proof of material loss to take action against PRIIPs manufacturers producing misleading or inconsistent KID information. Regulatory penalty fines for infringement could run into the millions, and indeed, the sale of products could be suspended where they are found to hold inaccurate KIDs.

What We Know

How much leeway will there be in providing accurate data?

In some ways, this question precipitated the rejection of the technical standards by the European Parliament committee. It was felt that the standards for future performance were ambiguous, and could expose the manufacturers to legal action.

It should, however, be assumed that the intention for the KID is to provide tightly standardised rules, and it will hopefully be made clear what information is required for retail investors. A source of confusion is the fact that PRIIPs covers a wide range of investment products from both fund managers and insurers. The disparate nature of the products covered contributes to the difficulties in trying to define a clear, unified standard.

How often do KIDs need to be updated?

KIDs will need to be updated whenever there is a material change in performance, risk or costs of the product. They also need to be reviewed and updated at a minimum of once every 12 months, even where significant product changes have not occurred.

Who is liable for the production of inaccurate or misleading KIDs?

Many lawyers have suggested that liability will extend beyond the manufacturer and onto those companies that provide investments that go into making up a particular product. In other words, should a company that makes a portion of an investment product not supply the correct information to the manufacturer to be used in the KID, they could end up being liable in any civil or regulatory action. However, the obligation to make sure that their KIDs are accurate and do not mislead investors remains with the product manufacturers.

**For more information contact us
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