

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

2012/0169(COD) - 03/07/2012 - Legislative proposal

PURPOSE: to improve transparency in the investment market for retail investors.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

BACKGROUND: retail investment products – which include investment funds, retail structured products and certain types of insurance contracts used for investment purposes – are essential for meeting the needs of EU citizens for products with which to build up savings and investments.

Currently, **the comparability, comprehensibility and presentation of information vary**, so the average investor can struggle to make necessary comparisons between products.

Information – other than marketing – is typically overly lengthy and does not sufficiently highlight key points or information. Different rules that vary according to the industry that offers the investment products and national regulation in this area create an un-level playing field between different products and distribution channels, erecting additional barriers to a Single Market in financial services and products.

It is necessary to **establish uniform rules at the level of the Union applying across all participants of the investment product market on transparency** so as to prevent divergences.

This proposal forms part of a wider legislative package dedicated to rebuilding consumer trust in financial markets. The package has two other parts.

- A revision of the Insurance Mediation Directive 2002/92/EC (IMD) to ensure that customers benefit from a high level of protection when buying insurance products.
- A proposal to strengthen the function of the depositary for UCITS – a key building block for investor protection provided for by the UCITS Directive. To ensure the continued effectiveness of this building block, targeted amendments are proposed to Directive 2009/65/EC.

IMPACT ASSESSMENT: this initiative is the result of an extensive dialogue and consultation with all interested stakeholders. Policy options related to the scope of the new regime, level of standardisation, who should be held responsible for producing of the disclosure, and how to ensure its effective provision to retail investors. A number of studies, including an innovative study focused on behavioural insights related to retail investors, supported this impact assessment work.

The draft impact assessment report was examined by the Impact Assessment Board, and revised in line with its positive opinion of 15 April 2011. Amongst other improvements:

- the interaction between the proposal and other measures on investor protection, including those on selling practices was further clarified,
- the concrete scope of products and entities impacted by the proposal made clearer,
- the possible interaction of the proposals with other areas of Union law clarified further,
- the analysis of options deepened and extended,
- and the cost and benefit estimates were more clearly adjusted to reflect steps already taken for UCITS.

- the analysis of the other factors relevant for investor decision making was deepened to reflect more explicitly that investor disclosures are only one such factor, and that the role of advisors or sellers can be predominant in determining or influencing investor choices in many practical sales environments.

LEGAL BASIS: Article 114 of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: the proposal aims to ensure that retail investors are able to understand the key features and risks of retail investment products and to compare the features of different products. At the same time it also aims to ensure a level playing field between different investment product manufacturers and those selling those products. It aims therefore to establish uniform conditions for the way investors in the Union are informed about investment products by the means of a short document and how the information is provided to them. This proposal therefore harmonises the operating conditions in relation to the information on investment products for all relevant players in the retail investment market, product manufacturers, persons selling and investors.

The main elements of the proposal are as follows:

Key information documents (KIDs): the proposal provides that the investment product manufacturer shall draw up a key information document for each investment product it produces and shall publish the document on a website of its choice before the investment product can be sold to retail investors. The proposal stipulates that a person selling an investment product to retail investors shall provide them with the key information document in good time before the conclusion of a transaction relating to the investment product.

Targeted products: investment products which should be accompanied by a KID when sold to retail investors. These products include:

- products with capital guarantees, and those where, in addition to capital, a proportion of the return is also guaranteed; investment funds, whether closed-ended or open-ended including UCITS;
- all structured products, whatever their form (e.g. packaged as insurance policies, funds, securities or banking products);
- insurance products whose surrender values are determined indirectly by returns on the insurance companies own investments or even the profitability of the insurance company itself as well as derivative instruments. Some of these products may be used as individual retail pension products, i. e. accumulation vehicles for the purposes of retirement planning.

Form and content of KID: this proposal introduces the principles of the UCITS KIID regime across all other retail investment products – all KIDs should have a **standardized 'look and feel'** and contents designed to keep them focused on key information presented in a common way, so as to promote comparability of information and its comprehension by retail investors.

Therefore the proposal provides clear indications in relation to its form and language: **the KID should:**

- be a **short document, written in a concise manner, in non-technical language** that avoids jargon, so as to be understandable by the average or typical retail investor, drawn up in a **common format** so that investors are able to easily compare between different investment products;
- be a **stand-alone** document in the sense that retail investors should not be required to read other documents to be able to understand the key features of the investment product and take an informed investment decision, and it should be clearly distinct from marketing materials.

The proposal specifies the **essential elements of the investment product** which should be described in the KID: the identity of the product and its manufacturer, the nature and the main features of the product,

including whether the investor's might lose capital, its risk and reward profile, costs, and past performance as appropriate.

Also, the proposal includes requirements on the **media used** for providing the KID to retail investors, including conditions designed to allow for media other than paper.

Complaints, redress and cooperation: the proposal includes measures to ensure effective complaints procedures both on the part of the investment product manufacturer and at the level of Member States. In addition, it includes measures to ensure effective access to dispute resolution procedures and redress.

Administrative sanctions and measures: this proposal contains provisions on sanctions and measures aimed at introducing a harmonised approach to sanctions in order to ensure consistency. It is important that administrative sanctions and measures are applied where key provisions of this proposal are not complied with and that those sanctions and measures are effective, proportionate and dissuasive.

BUDGETARY IMPLICATIONS: there are no implications for the EU budget in that no additional funding and no additional posts will be required to perform these tasks. The tasks envisaged for the European Supervisory Authorities fall within the scope of existing responsibilities for these Authorities, therefore the allocation of resources and staff foreseen in the approved Legislative Financial Statements for these Authorities will be sufficient to facilitate the execution of these tasks.

DELEGATED ACTS: this proposal contains provisions empowering the Commission to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU).