

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

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OPINION OF THE EUROPEAN CENTRAL BANK (ECB).

On 11 and 18 September 2012, the European Central Bank (ECB) received a request from the Council of the European Union and from the European Parliament, respectively, for an opinion on a proposal for a regulation of the European Parliament and of the Council on key information documents (KID) for investment products.

The ECB welcomes the proposed regulation.

It makes a number of comments as follows :

Consistency with other European Union legislative initiatives :

The ECB considers that disclosure requirements should be accompanied by **adequate supervisory powers**, both at the national and Union level, to prohibit or restrict the marketing, distribution or sale of certain financial instruments in the case of a threat to the orderly functioning of financial markets. In this respect, the European Supervisory Authorities (ESAs) and national competent authorities should be provided with adequate intervention powers.

In addition to the harmonisation of pre-contractual information introduced by the proposed regulation, the ECB recommends that **market conduct requirements relating to the selling of financial products should also be made consistent** across financial services sectors.

A level playing field between different types of investment products should be ensured with a view to avoiding regulatory arbitrage at the expense of the investment products that are not covered by the proposed regulation, such as non-complex financial instruments.

Responsibility to produce the KID : according to the ECB, the distributor of an investment product should also be responsible for ensuring that a retail investor has an effective way of submitting a complaint against the manufacturer in relation to the KID and of initiating a redress procedure. Moreover, the ECB considers that the proposed arrangement should allow for **effective redress procedures also in the event of cross-border disputes**, in particular where the manufacturer is located in another Member State or in a third country.

Content of the KID : the proposed regulation **explicitly requires the KID to include the following elements**: (i) counterparty, operational and liquidity risks affecting the investment product; (ii) sensitivity of the products' performance to effective stress scenarios; and (iii) the leveraged component of the product insofar as this component may multiply the applicable risks.

Administrative sanctions and measures : the ECB recommends that the proposed regulation should be amended so as to ensure harmonisation with other proposed Union legislation introducing administrative sanctions, in particular by including provisions on **administrative pecuniary sanctions**.