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

2012/0169(COD) - 20/11/2013 - Text adopted by Parliament, partial vote at 1st reading/single reading

The European Parliament adopted **amendments** to the proposal for a regulation of the European Parliament and of the Council on key information documents for investment products.

The vote has been postponed and the issue has been **referred back to the committee responsible**.

The main amendments adopted in plenary 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 provision of those documents to retail investors.

Moreover, 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 new rules should apply to all investment products to retail investors, with the exception of insurance products and securities which **do not offer a surrender value** as well as officially recognised social security schemes. It should not apply to officially recognised **occupational pension schemes and individual pension products** for which a financial contribution from the employer is required by national law and where the employee has no choice as to the provider.

Packaged investment products: these products should provide **clear benefits for retail investors**, such as spreading investment risks to many different economic sectors or many underlying assets. This Regulation should aim at avoiding packaging features which exploit biases in the decision making of investors, in order to promote transparency and a better understanding of risks linked to packaged retail investment products.

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 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.

Approval process: Parliament proposed 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.

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

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;
- be drawn up as a short document **written in a concise manner of a maximum of two double-sided A4 pages and an annex**.

A complexity label should be created if a product is considered to be very complex, and may not be appropriate for all retail investors.

The **annex** to the KID should disclose the **identity** of the person selling investment products and also, where applicable, should specify:

- 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;
- **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 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.

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 5 000 000** on individual persons.