Basic information

2012/0169(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
Packaged retail and insurance-based investment products (PRIIPs): key information documents Amended by 2016/0355(COD) Amended by 2021/0215(COD) **Subject** 2.50.03 Securities and financial markets, stock exchange, CIUTS, investments 2.50.05 Insurance, pension funds 2.50.08 Financial services, financial reporting and auditing 2.50.10 Financial supervision 4.60.06 Consumers' economic and legal interests	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
ECON Economic and Monetary Affairs	BERÈS Pervenche (S&D)	10/05/2011
	Shadow rapporteur PIETIKÄINEN Sirpa (PPE) BOWLES Sharon (ALDE) GIEGOLD Sven (Verts/ALE) KAMALL Syed (ECR) HÄNDEL Thomas (GUE/NGL)	

Committee for opinion	Rapporteur for opinion	Appointed
IMCO Internal Market and Consumer Protection	PANZERI Pier Antonio (S&D)	18/09/2012
JURI Legal Affairs	The committee decided not to give an opinion.	
LIBE Civil Liberties, Justice and Home Affairs	LUHAN Petru Constantin (PPE)	11/10/2012

Council of the European Union

Council configuration	Meetings	Date

	Agriculture and Fisheries	3344	2014-11-10

European Commission	**Commission DG**	**Commissioner**
	Financial Stability, Financial Services and Capital Markets Union	BARNIER Michel

European Economic and Social Committee

Key events

Date	Event	Reference	Summary
03/07/2012	Legislative proposal published	COM(2012)0352	Summary
11/09/2012	Committee referral announced in Parliament, 1st reading		
21/10/2013	Vote in committee, 1st reading		
06/11/2013	Committee report tabled for plenary, 1st reading	A7-0368/2013	Summary
19/11/2013	Debate in Parliament		
20/11/2013	Decision by Parliament, 1st reading	T7-0489/2013	Summary
20/11/2013	Results of vote in Parliament		
15/04/2014	Decision by Parliament, 1st reading	T7-0357/2014	Summary
15/04/2014	Results of vote in Parliament		
10/11/2014	Act adopted by Council after Parliament's 1st reading		
26/11/2014	Final act signed		
26/11/2014	End of procedure in Parliament		
09/12/2014	Final act published in Official Journal		

Technical information

Procedure reference	2012/0169(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Amendments and repeals	Amended by 2016/0355(COD) Amended by 2021/0215(COD)
Legal basis	Treaty on the Functioning of the European Union TFEU 114-p1
Mandatory consultation of other institutions	European Economic and Social Committee
Stage reached in procedure	Procedure completed
Committee dossier	ECON/7/10045

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE502.113	20/12/2012	
Amendments tabled in committee		PE504.398	15/02/2013	
Amendments tabled in committee		PE504.397	20/02/2013	
Committee opinion	LIBE	PE504.372	16/04/2013	
Committee opinion	IMCO	PE502.121	15/05/2013	
Committee report tabled for plenary, 1st reading/single reading		A7-0368/2013	06/11/2013	Summary
Text adopted by Parliament, partial vote at 1st reading /single reading		T7-0489/2013	20/11/2013	Summary
Text adopted by Parliament, 1st reading/single reading		T7-0357/2014	15/04/2014	Summary

Council of the EU

Document type	Reference	Date	Summary
Draft final act	00091/2014/LEX	26/11/2014	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2012)0352	03/07/2012	Summary
Document attached to the procedure	SWD(2012)0187	03/07/2012	
Document attached to the procedure	SWD(2012)0188	03/07/2012	
Commission response to text adopted in plenary	SP(2014)471	09/07/2014	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	DE_BUNDESRAT	COM(2012)0352	24/09/2012	
Contribution	PT_PARLIAMENT	COM(2012)0352	11/10/2012	
Contribution	BE_CHAMBER	COM(2012)0352	15/10/2012	
Contribution	IT_SENATE	COM(2012)0352	11/01/2013	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary

EESC	Economic and Social Committee: opinion, report	CES1841/2012	14/11/2012	
ECB	European Central Bank: opinion, guideline, report	CON/2012/0103 OJ C 070 09.03.2013, p. 0002	11/12/2012	Summary

Additional information

Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	
European Commission	EUR-Lex	

Final act

Regulation 2014/1286
OJ L 352 09.12.2014, p. 0001 — Summary

Corrigendum to final act 32014R1286R(01)
OJ L 358 13.12.2014, p. 0050 — Summary

Delegated acts

Reference	Subject
2017/2602(DEA)	Examination of delegated act
2019/2765(DEA)	Examination of delegated act
2016/2853(DEA)	Examination of delegated act
2018/2655(DEA)	Examination of delegated act
2016/2816(DEA)	Examination of delegated act
2022/2602(DEA)	Examination of delegated act
2021/2871(DEA)	Examination of delegated act
2022/2725(DEA)	Examination of delegated act

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

2012/0169(COD) - 11/12/2012 - European Central Bank: opinion, guideline, report

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**.

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

2012/0169(COD) - 06/11/2013 - Committee report tabled for plenary, 1st reading/single reading

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 disclose 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.

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.

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

2012/0169(COD) - 26/11/2014 - Final act

PURPOSE: to enhance retail investor protection and improve retail investor confidence in packaged retail and insurance-based investment products (PRIIPs).

LEGISLATIVE ACT: Regulation (EU) n° 1286/2014 of the European Parliament and of the Council on key information documents for packaged retail and insurance-based investment products (PRIIPs).

CONTENT: the Regulation lays down **uniform rules on the format and content of the key information document** to be drawn up by PRIIP manufacturers and on the provision of the key information document to retail investors.

The Regulation is part of a package of measures to boost consumer trust in financial markets. It sets out to **ensure that retail investors always receive the information they need** to take informed decisions.

Scope: the Regulation covers **packaged retail and insurance-based investment products**, specifically investment funds, structured deposits and life insurance policies with an investment element.

It does not apply to:

- non-life insurance products;
- life insurance contracts whose benefits are only payable upon death or in the event of
- incapacity due to injury, sickness or infirmity;
- deposits other than structured deposits and securities;
- officially recognised pension schemes;
- pension products whose primary purpose is to provide the investor with a retirement income;
- individual pension products for which an employer contribution is required.

Key information documents: before a PRIIP is made available to retail investors, the PRIIP manufacturer must draw up for that product a key information document and publish the document on its website.

The document must be:

- accurate, fair, clear and not misleading;
- a stand-alone document, clearly separate from marketing materials;
- written in a concise manner and of a **maximum of three sides of A4-sized paper** when printed, which promotes comparability;
- focus on the **key information that retail investors need** and be clearly expressed in language that is clear, succinct and comprehensible.

Furthermore, key information documents should indicate:

- the nature and features of the product, including a specification of the markets the PRIIP invests in, including, where applicable, specific environmental or social objectives targeted by the product;
- whether it is possible to lose capital;
- the costs and risk profile of the product;
- relevant performance information;
- the length of time that the investor can hold the product and whether money may be taken out early;
- information about how and to whom a retail investor can make a complaint.

Where applicable, the key information document must contain a **comprehension alert** that shall read: 'You are about to purchase a product that is not simple and may be difficult to understand.'

Losses for which the key information document is responsible: a retail investor who demonstrates loss resulting from reliance on a key information document, when making an investment into the PRIIP for which that key information document was produced, **may claim damages from the PRIIP manufacturer for that loss** in accordance with national law.

Market monitoring: the European Insurance and Occupational Pensions Authority (EIOPA) shall monitor the market for insurance-based investment products that are marketed, distributed or sold in the Union.

Complaints: retail investors must have an effective way of submitting a complaint against the PRIIP manufacturer, as well as **effective redress procedures** in the event of cross-border disputes.

Penalties: the competent authorities designated by a Member State shall have the power to impose sanctions such as the prohibition or suspension of a product from the market, through a **public warning** and through **administrative sanctions** of up to **EUR 5 000 000**, or, up to 3 % of the total annual turnover of a legal entity or up to **EUR 700 000** for a natural person.

Review: by 31 December 2018, the Commission will review the Regulation, taking due account of developments in the market such as the emergence of new types of PRIIPs. It should also consider whether the **transitional period of five years** applying to UCITS should be extended, since the latter must observe the information requirements of Directive 2009/65/EC.

ENTRY INTO FORCE: 29.12.2014. The Regulation is applicable from 31.12.2016.

DELEGATED ACTS: the Commission may adopt delegated acts to attain the objectives of the Regulation. The power to adopt such acts is conferred on the Commission for a period of **3 years from 30 December 2014**. The European Parliament or the Council may raise objections to a delegated act within two months of the date of notification (which may be extended by two months). If Parliament or Council raise objections, the delegated act will not come into force.

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

2012/0169(COD) - 26/11/2014 - Corrigendum to final act

Corrigendum to Regulation (EU) No 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products (PRIIPs)

(Official Journal of the European Union L 352 of 9 December 2014)

On page 13, Article 8(5), third subparagraph:

for:

'31 March 2015',

read:

'**31 March 2016'**.

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

2012/0169(COD) - 15/04/2014 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 637 to 26 votes, with 16 abstentions, a proposal for a regulation of the European Parliament and of the Council on key information documents for investment products.

The report was referred back to the responsible committee at the plenary session of 20 November 2012. Parliament adopted its position at first reading following the ordinary legislative procedure. The amendments adopted in plenary are the result of a negotiated agreement between the European Parliament and the Council. They amend the proposal as follows:

Purpose of the regulation and products covered: it is stated that the regulation would aim to enable retail investors (small non-professional investors) to understand and compare the key features and risks of investment products.

The regulation should apply to the initiators of **retail investment products based on insurance** (that is to say, insurance products with a life or commuted value exposed to market fluctuations) and to persons who sell these products or offer advice thereon.

However, **the new provisions shall not apply to the following products**:

- non-life insurance products;
- life insurance contracts where the benefits provided by the contract are payable only in the event of death or disability due to an accident, illness or disability;
- deposits other than structured deposits and securities;
- officially recognised pension schemes;
- retirement products recognised by national law as having the primary objective of providing the investor with income in retirement;
- individual retirement products for which an employer's financial contribution is required.

Drawing up the Key Information Document (KID): before placing a retail investment product on the market, the investment product manufacturer shall draw up a KID and publish the KID on its website. Member States may require the initiator to **notify the document in advance to the competent national authority** empowered to supervise investment product manufacturers in the Member State concerned.

Form and content of the document: **before a binding agreement is made**, the retail investor should receive a KID of a **maximum of three A4 pages** allowing them to take an informed decision and to compare retail investment products as well as insurance products.

The KID should be **accurate, fair, clear and not misleading**. It should be a **stand-alone document**, **clearly separate from marketing materials**, and be compatible with any binding contractual document.

The document should **help investors to understand the features, risks, costs, potential gains and losses** associated to it. To this end, it should contain specific information such as:

- the **name** and address of the initiator, information relating to the relevant national authority and the date of the document;
- a notification of **specific environmental or social outcomes** targeted by the investment product, as well as the way in which performance is measured;
- a description of the **types of investors** for whom the investment product is intended, especially in terms of risk appetite and investment horizon;
- a brief description of the **risk and reward profile** of the investment product, including for example, the maximum possible loss of invested capital;
- a brief description outlining, in the event of the initiator being unable to make the payments covered, whether the investment product is covered by a **compensation scheme**;
- the required minimum holding period and cashing in early;
- information about how and to whom a client can make a claim.

Complex products: some of the investment products covered by the scope of the regulation are not simple and may be difficult for investors to understand. This is why Parliament has ensured that investors receive, when necessary, the following notice, "**You are about to purchase a product that is not simple and which may be difficult to understand**".

Responsibility in the case of losses: the amended text foresees that if a retail investor shows that they suffered a loss through the use of the KID by investing in the retail investment product for which the KID was produced, this retail investor could **seek redress** from the initiator of the investment product for this loss, under the provisions of national law.

Intervention powers of the European Supervisory Authorities (ESAs): the ESAs should monitor investment products or financial instruments which are marketed, distributed or sold in the Union. Thus, the European Insurance and Occupational Pensions Authority (EIOPA) may **temporarily prohibit or restrict in the Union the marketing, distribution or sale** of investment products.

The competent authorities would also exercise supervision of the marketing of insurance-based products which are sold, distributed or sold in the Member State concerned or apart from this. They should publish a notice on their website each time they decide to impose an interdiction or restriction.

Complaints: the retail investors should have an effective way of submitting a complaint against the initiator of an investment product based on insurance. Effective redress procedures should also be available to retail investors in the event of cross-border disputes.

Penalties: the competent authorities designated by the Member States should have the power to impose penalties such as the suspension or prohibition of the sale of a product, by publishing a public notice and imposing administrative fines of at least **EUR 5 000 000 or at least 3% of annual turnover** in the case of a moral person or a maximum amount of at least **EUR 700 000** for individuals.

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).