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INFORMATION NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 1286/2014 as regards the extension of the transitional arrangement for management companies, investment companies and persons advising on, or selling, units of undertakings for collective investment in transferable securities (UCITS) and non-UCITS - Outcome of the European Parliament's first reading (Strasbourg, 22-25 November 2021)

I. INTRODUCTION

A number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this file at first reading.

In this context, the Committee on Economic and Monetary Affairs presented compromise amendments (amendments 1 to 4) to the abovementioned proposal for a Regulation. These amendments had been agreed during informal contacts referred to above. No other amendments were tabled.

II. VOTE

When it voted on 23 November 2021, the plenary adopted in a single vote the compromise amendments (amendments 1 to 4) to the abovementioned proposal for a Regulation. No other amendments were adopted. The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto¹.

The Parliament's position reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

¹ The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in *bold and italics*. The symbol "■" indicates deleted text.

P9_TA(2021)0461

Packaged retail and insurance-based investment products (PRIIPs): key information documents. Extension of the transitional arrangement *I**

European Parliament legislative resolution of 23 November 2021 on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) No 1286/2014 as regards the extension of the transitional arrangement for management companies, investment companies and persons advising on, or selling, units of undertakings for collective investment in transferable securities (UCITS) and non-UCITS (COM(2021)0397 – C9-0326/2021 – 2021/0215(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2021)0397),
 - having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0326/2021),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 20 October 2021²,
 - having regard to the undertaking given by the Council representative by letter of 5 November 2021 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs (A9-0297/2021),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

² Not yet published in the Official Journal.

- Instructs its President to forward its position to the Council, the Commission and the national parliaments.

P9_TC1-COD(2021)0215

Position of the European Parliament adopted at first reading on 23 November 2021 with a view to the adoption of Regulation (EU) 2021/... of the European Parliament and of the Council amending Regulation (EU) No 1286/2014 as regards the extension of the transitional arrangement for management companies, investment companies and persons advising on, or selling, units of undertakings for collective investment in transferable securities (UCITS) and non-UCITS

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee³,

Acting in accordance with the ordinary legislative procedure⁴,

³ Opinion of 20 October 2021 (not yet published in the Official Journal).

⁴ Position of the European Parliament of 23 November 2021.

Whereas:

- (1) Article 5 of Regulation (EU) No 1286/2014 of the European Parliament and of the Council⁵ requires manufacturers of packaged retail and insurance-based investment products (PRIIPs), before making a PRIIP available to retail investors, to draw up and publish a key information document ('KID').
- (2) Article 32(1) of Regulation (EU) No 1286/2014 exempts management companies as defined in Article 2(1), point (b), of Directive 2009/65/EC of the European Parliament and of the Council⁶, investment companies as referred to in Article 27 of that Directive and persons advising on, or selling, units of undertakings for collective investment in transferable securities (UCITS) as referred to in Article 1(2) of that Directive from the obligations laid down in that Regulation, and thus from the requirement to produce a KID, until 31 December 2021 ('the transitional arrangement'). In accordance with Article 32(2) of Regulation (EU) No 1286/2014, where a Member State applies rules on the format and content of the key investor information document, as laid down in Articles 78 to 81 of Directive 2009/65/EC, to non-UCITS funds offered to retail investors, the transitional arrangement is to apply to management companies, investment companies and persons advising on, or selling, units of such non-UCITS funds to retail investors.

⁵ 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) (OJ L 352, 9.12.2014, p. 1).

⁶ Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (OJ L 302, 17.11.2009, p. 32).

- (3) Commission Delegated Regulation (EU) 2017/653⁷ supplements Regulation (EU) No 1286/2014 by laying down regulatory technical standards with regard to the presentation, content and standard format of the KID, the methodology for the presentation of risk and reward and for the calculation of costs, the conditions and minimum frequency for reviewing the information contained in the KID, and the conditions for providing the KID to retail investors.
- (4) On 7 September 2021, the Commission adopted Delegated Regulation (EU) 2021/... amending the regulatory technical standards laid down in Commission Delegated Regulation (EU) 2017/653 as regards the underpinning methodology and presentation of performance scenarios, the presentation of costs and the methodology for the calculation of summary cost indicators, the presentation and content of information on past performance and the presentation of costs by PRIIPs offering a range of options for investment and alignment of the transitional arrangement for PRIIP manufacturers offering units of funds referred to in Article 32 of Regulation (EU) No 1286/2014 of the European Parliament and of the Council as underlying investment options with the prolonged transitional arrangement laid down in that Article. The date of application of that Delegated Regulation is 1 July 2022, but it is important to *reflect the need* to give management companies, investment companies and persons advising on, or selling, units of UCITS and non-UCITS sufficient time to prepare for the end of the transitional arrangement and thus for the obligation to draw up a KID. ■

⁷ Commission Delegated Regulation (EU) 2017/653 of 8 March 2017 supplementing Regulation (EU) No 1286/2014 of the European Parliament and of the Council on key information documents for packaged retail and insurance-based investment products (PRIIPs) by laying down regulatory technical standards with regard to the presentation, content, review and revision of key information documents and the conditions for fulfilling the requirement to provide such documents (OJ L 100, 12.4.2017, p. 1).

- (5) *In order to ensure that the need for sufficient time to prepare for the obligation to produce a KID is met, it is necessary to extend the transitional arrangement until 31 December 2022.*
- (6) Regulation (EU) No 1286/2014 should therefore be amended accordingly.
- (7) *Regulation (EU) No 1286/2014 aims to enable retail investors to make better-informed investment decisions. In spite of the good intentions underpinning Regulation (EU) No 1286/2014, a number of concerns have been expressed since its adoption, including as regards the need for a clearer definition of ‘retail investor’, the product scope of that Regulation, the elimination of paper as the default option where a PRIIP is offered on a face-to-face basis, the concept of ‘successive transactions’, and the provision of pre-contractual information to professional investors. Those concerns need to be urgently addressed in order to improve retail investors’ trust in financial markets, both for the benefit of companies looking for funding and for the long-term benefit of investors. The need for a broader review was already set out in Regulation (EU) No 1286/2014, and its urgency remains unchanged. On the basis of such a review in accordance with Regulation (EU) No 1286/2014, the Commission is expected to submit, as a matter of urgency, a report to the European Parliament and to the Council accompanied, if appropriate, by a proposal to address the existing limitations.*
- (8) Given the very short period left until the original end of the transitional arrangement, this Regulation should enter into force without delay,

HAVE ADOPTED THIS REGULATION:

Article 1

In Article 32(1) of Regulation (EU) No 1286/2014, the date ‘31 December 2021’ is replaced by ‘**31 December 2022**’.

Article 2

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at ...,

For the European Parliament

For the Council

The President

The President
