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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	18 March 2022
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

No. Cion doc.:	C(2022) 1541 final
Subject:	COMMISSION DELEGATED REGULATION (EU) .../... of 17.3.2022 amending the regulatory technical standards laid down in Delegated Regulation (EU) 2017/653 as regards the extension of the transitional arrangement laid down in Article 14(2) of that Regulation and amending the regulatory technical standards laid down in Delegated Regulation (EU) 2021/2268 as regards the date of application of that Regulation

Delegations will find attached document C(2022) 1541 final.

Encl.: C(2022) 1541 final



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amending the regulatory technical standards laid down in Delegated Regulation (EU) 2017/653 as regards the extension of the transitional arrangement laid down in Article 14(2) of that Regulation and amending the regulatory technical standards laid down in Delegated Regulation (EU) 2021/2268 as regards the date of application of that Regulation

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Article 1 of Regulation (EU) 2021/2259 of the European Parliament and of the Council¹ extended the transitional arrangements for companies and persons, laid down in Article 32 of Regulation (EU) No 1286/2014 of the European Parliament and of the Council² in relation to certain UCITS and non-UCITS funds from 31 December 2021 to 31 December 2022. Consequently, those companies and persons will apply that Regulation in respect of those funds as of 1 January 2023.

This Delegated Regulation extends the transitional arrangements under Commission Delegated Regulation (EU) 2021/2268³ that are consistent with the extended transitional arrangements in Article 32 of Regulation (EU) No 1286/2014. It allows manufacturers of packaged retail and insurance-based investment products (PRIIPs) that offer investment funds as the only underlying investment options, or alongside other investment options, to continue using, for the purposes of drawing PRIIPs key information documents, key investor information documents drawn up in accordance with Articles 78 to 81 of Directive 2009/65/EC of the European Parliament and of the Council⁴ in respect of such funds until 31 December 2022. This Delegated Regulation also lays down 1 January 2023 as a new application date of Delegated Regulation (EU) 2021/2268.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

This Delegated Regulation is not accompanied by a separate impact assessment, as an impact assessment has already been produced for regulatory technical standards laid down in Commission Delegated Regulation (EU) 2017/653⁵. This Delegated Regulation neither alters the substance of that Delegated Regulation nor creates new obligations for manufacturers of

¹ Regulation (EU) 2021/2259 of the European Parliament and of the Council of 15 December 2021 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 (OJ L 455, 20.12.2021, p. 1).

² 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).

³ Commission Delegated Regulation (EU) 2021/2268 of 6 September 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 packaged retail and insurance-based investment products (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 (OJ L 455, 20.12.2021, p. 1).

⁴ 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 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).

PRIIPs or persons advising on or selling PRIIPs, including those referred to in Article 32 of Regulation (EU) No 1286/2014. It simply aligns the application deadline in the third paragraph of Article 18 of Delegated Regulation (EU) 2017/653 with the end of the transitional exemption laid down in Article 32 of Regulation (EU) No 1286/2014.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

Article 1 amends Article 18, third paragraph, of Delegated Regulation (EU) 2017/653. In consequence, the transitional arrangement for manufacturers of PRIIPs that offer investment funds as the only underlying investment options, or alongside other investment options, applies until 31 December 2022.

Article 2 amends Article 2, second paragraph, of Delegated Regulation 2021/2268. In consequence, Delegated Regulation (EU) 2021/2268 applies from 1 January 2023.

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amending the regulatory technical standards laid down in Delegated Regulation (EU) 2017/653 as regards the extension of the transitional arrangement laid down in Article 14(2) of that Regulation and amending the regulatory technical standards laid down in Delegated Regulation (EU) 2021/2268 as regards the date of application of that Regulation

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard 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)⁶, and in particular Article 8(5) and Article 10(2) thereof,

Whereas:

- (1) Regulation (EU) No 1286/2014 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 in order to enable retail investors to understand and compare the key features and risks of the PRIIP. However, pursuant to Article 32(1) of that Regulation, management companies as defined in Article 2(1), point (b), of Directive 2009/65/EC of the European Parliament and of the Council⁷, investment companies as referred to in Article 27 thereof and persons advising on, or selling, units of UCITS as referred to in Article 1(2) thereof were exempt from the obligations under that Regulation until 31 December 2021. When a Member State applies rules on the format and content of the key 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 laid down in Article 32(1) of that Regulation applies to management companies, investment companies and persons advising on, or selling, units of such funds to retail investors. Regulation (EU) 2021/2259 of the European Parliament and of the Council⁸ amended Regulation (EU) No 1286/2014 to extend that transitional arrangement until 31 December 2022.

⁶ OJ L 352, 9.12.2014, p. 1.

⁷ 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).

⁸ Regulation (EU) 2021/2259 of the European Parliament and of the Council of 15 December 2021 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 (OJ L 455, 20.12.2021, p. 1).

- (2) Commission Delegated Regulation (EU) 2017/653⁹, which was adopted on the basis of Articles 8(5), 10(2) and 13(5) of Regulation (EU) No 1286/2014, lays down rules with regard to the presentation, content, review and revision of key information documents and the conditions for fulfilling the requirement to provide such documents. Article 14(2) of that Delegated Regulation allowed PRIIP manufacturers to use the key investor information document drawn up in accordance with Articles 78 to 81 of Directive 2009/65/EC to provide specific information for the purposes of Articles 11 to 13 of that Delegated Regulation, rather than the key information document referred to in that Delegated Regulation (EU) 2017/653, until 31 December 2019, provided that at least one of the underlying investment options referred to in Article 14(1) of that Delegated Regulation is a UCITS or non-UCITS fund as referred to in Article 32 of Regulation (EU) No 1286/2014. Commission Delegated Regulation (EU) 2019/1866¹⁰ extended that transitional arrangement until 31 December 2021, and Commission Delegated Regulation 2021/2268¹¹ amended Delegated Regulation (EU) 2017/653 to further extend that transitional arrangement until 30 June 2022.
- (3) Since Regulation (EU) 2021/2259 has now extended the transitional arrangement referred to in Article 32 of Regulation (EU) No 1286/2014 until 31 December 2022, it is necessary that that extension is also reflected in Delegated Regulation (EU) 2017/653, and that the transitional arrangement is further extended from 30 June 2022 until 31 December 2022. Delegated Regulation (EU) 2017/653 should therefore be amended accordingly.
- (4) It is necessary to ensure that Delegated Regulation (EU) 2021/2268 only applies as of the day that follows the end of the transitional arrangement laid down in Article 32 of Regulation (EU) 1286/2014. The date laid down in Article 2, second paragraph, of Delegated Regulation 2021/2268 (EU) should therefore be replaced. Delegated Regulation (EU) 2021/2268 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Amendment to Delegated Regulation (EU) 2017/653

In Article 18 of Delegated Regulation (EU) 2017/653, the third paragraph is replaced by the following:

⁹ 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).

¹⁰ Commission Delegated Regulation (EU) 2019/1866 of 3 July 2019 amending Delegated Regulation (EU) 2017/653 to align 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 exemption period under that Article (OJ L 289, 8.11.2019, p. 4).

¹¹ Commission Delegated Regulation (EU) 2021/2268 of 6 September 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 packaged retail and insurance-based investment products (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 (OJ L 4551, 20.12.2021, p. 1).

‘Article 14(2) shall apply until 31 December 2022.’.

Article 2

Amendment to Delegated Regulation 2021/2268

In Article 2, second paragraph, of Delegated Regulation 2021/2268, ‘1 July 2022’ is replaced by ‘1 January 2023’.

Article 3

Entry into force

This Regulation shall enter into force on the twentieth 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 Brussels, 17.3.2022

For the Commission
The President
Ursula VON DER LEYEN