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NOTE

From:	Presidency
To:	Permanent Representatives Committee
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 1286/2014 as regards the modernisation of the key information document

2023/0166 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EU) No 1286/2014 as regards the modernisation of the key information document

(Text with EEA relevance)

PUBLIC

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,

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) A core objective of the Capital Markets Union (CMU) is to ensure that consumers can fully benefit from the investment opportunities offered by capital markets. To be able to do so, consumers must be supported by a regulatory framework that empowers them to take investment decisions that correspond to their needs and aims and adequately protects them in the single market. The package of measures under the EU Retail investment strategy seeks to address the identified shortcomings, including those in the area of information available to retail investors.

(2) Article 4, point (1), of Regulation (EU) No 1286/2014 defines packaged retail investment products or 'PRIPs' as investments where, regardless of the legal form of the investment, the amount repayable to the retail investor is subject to fluctuations because of exposure to reference values or to the performance of one or more assets that are not directly purchased by the retail investor. The ability for the manufacturer to redeem the investment early by triggering a make-whole clause should not in itself be considered as such a fluctuation. That fact should be reflected in the definition of PRIPs.

(3) In the case PRIIPs offer the retail investor a range of options for investments, the information on those various options may be contained in different documents. That makes it difficult for retail investors interested in purchasing such PRIIPs to identify the total costs of the PRIIPs. It is therefore necessary to provide retail investors with tools, including simulation tools, to access and compare the total costs of such PRIIPs before they select one particular investment option. More detailed rules ***on the*** use of these tools should ensure better visibility of the total costs of these products while allowing a certain degree of flexibility when using simulation tools.

An EU-wide product comparison tool could be beneficial to improve information for retail investors, and their ability to take well-informed investment decisions by providing a comprehensive overview on the offering of retail products both in their jurisdiction and across the EU. This could increase transparency on investment products for retail investors, be beneficial for competition, and facilitate the participation of retail investors in capital markets. The Commission should prepare a report that includes a feasibility study, comprising an assessment of impacts, costs and benefits, on the possible introduction of an EU-wide online comparison tool and how it could be operationalised in practice following the incorporation of the PRIIPSs KIDs into the European Single Access Point (ESAP).

PUBLIC

(4) Retail investors increasingly seek information on the sustainability performance of investment products, including PRIIPs***. It is therefore important to include the sustainability profile of the PRIIPs in the key information document***. Recent Union legislative acts have introduced several disclosure obligations that could be leveraged to inform retail investors, in particular Regulation (EU) 2019/2088 of the European Parliament and of the Council[1] ▌ and Regulation (EU) 2020/852 of the European Parliament and of the Council[2]***. In light of the Commission's proposal (2025/0361 (COD)) and in order to avoid further amendments within a short period,*** it is ***appropriate that the*** information ***on*** sustainability ***in*** the key information document ***be subject to that review. Therefore, that*** information ***is not amended by this*** Regulation ▌ .

(4a) In order to strengthen the comprehensibility and meaningfulness of the information on performance, the ESAs should allow for more flexibility in their draft regulatory technical standards on the nature of the information to be provided in the performance section of the key information document. The key information document should include information on forward-looking performance scenarios based on realistic data and plausible assumptions, as well as information on past performance where it provides meaningful information.

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1 Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019 on sustainability-related disclosures in the financial services sector (OJ L 317, 9.12.2019, p. 1).

2 Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13).

(5) Increased digitalisation provides opportunities to present key features of PRIIPs in a more attractive way. Regulation (EU) No 1286/2014 does not, however, provide sufficient flexibility for the use of digital means for displaying key information to investors**.** Presenting information from PRIIPs key information documents in a layered way ▌ would reduce the visual overload of retail investors and facilitate their understanding of the PRIIP concerned. It is therefore necessary to introduce more flexibility in the use of the electronic format so that investors can fully benefit from the potential offered by the provision of a key information document in an electronic format***. It should be ensured that the content*** of the ▌ key information document ***in an electronic format and on paper*** should ***be the same, in order to guarantee access to all relevant*** information ***referred to in the KID. The consumer*** could ***request a paper version of the KID that should*** be provided ***for free.*** Retail investors ***should be*** informed ***where*** they can download the complete key information document.

(5a) Enhanced digital accessibility of KIDs is essential to deliver on the objectives of the SIU and to ensure that investors and market participants can benefit from transparent, comparable and high-quality information. Requiring machine-readability facilitates the effective use of the European Single Access Point and reduce the reporting burden on companies. In order to support the objectives of the Savings and Investments Union (SIU) and in line with the rules laid down in Regulation (EU) 2023/2859, the Key Information Document should be machine readable.

PUBLIC

(6) The European Securities and Markets Authority, the European Banking Authority and the European Insurance and Occupational Pensions Authority (the 'ESAs') should develop the draft regulatory technical standards as regards the content of the dashboards and the principles for the use of layering and digital options using an electronic format. The Commission should adopt those draft regulatory technical standards, or further amend them, by means of delegated acts pursuant to Article 290 TFEU and in accordance with Articles 10 to 14 of Regulations (EU) No 1093/2010[2], (EU) 1094/2010[3] and Regulation (EU) 1095/2010 of the European Parliament and of the Council[4].

(7) To ensure that retail investors make an informed investment decision at all times, the key information document should be kept up to date ***for*** PRIIPs that are still made available**,** ***open to new subscriptions, or that can be purchased on a secondary market***. Keeping the key information document updated should be without prejudice to the fact that manufacturers should comply with the pre-contractual information contained in the key information document provided to retail investors before their investment.

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2 Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

3 Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (OJ L 331, 15.12.2010, p. 48).

4 Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

(7a) Regulation (EU) No 1286/2014 applies to any product that qualifies as a PRIIP according to Chapter 1 of Regulation (EU) No 1286/2014, irrespective of the sector or industry to which the manufacturer of that PRIIP belongs.

(7b) Pension products, that consist of immediate annuities and do not have an accumulation phase are not meant to fall under the scope of Regulation (EU) No 1286/2014, as they are not considered as investment products. Annuities are regulated by Directive 2009/138/EC and can therefore only be offered by insurance undertakings in accordance with that Directive. To fall under the new exclusion from Regulation (EU) No 1286/2014, a product should consist of annuities in accordance with Directive 2009/138/EC and those annuities should be immediately payable, without being preceded by an accumulation phase during which the amounts paid by the investors are invested to generate a return.

(7c) The key information document is meant to be a concise document. A three-page limit has been set in Regulation (EU) No 1286/2014 in order to achieve this goal. This Regulation requires new elements to be included in the key information document. At the same time, the key information document should remain clear and easy to read. This entails streamlining the content and presentation of the key information document in such a way as to avoid any non-essential or redundant information.

PUBLIC

(8) Regulation (EU) No 1286/2014 should therefore be amended accordingly.

(9) Sufficient time needs to be provided to European Supervisory Authorities to draft specifications for key elements of the amended rules and for the PRIIPs manufacturers to familiarise themselves with these specifications. Therefore, the date application of this Regulation should be deferred***. However***, ***the provisions in relation to certain repealed acts and an amendment to the definition of PRIIPs concerning a make-whole clause should apply from the date of entry into force,***

HAVE ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EU) 1286/2014

Regulation (EU) 1286/2014 is amended as follows:

(1) Article 2(2) is amended as follows:

(a) point (d) is replaced by the following:

‘(d) securities as referred to in Article 1(2), points (b) to ***(f)*** of Regulation (EU) 2017/1129 of the European Parliament and the Council[*];

———

**** Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC (OJ L 168, 30.6.2017, p. 12).***’

(b) the following point (h) is added:

'(h) pension products ***that consist of annuities, as referred to in Article 2(3), subparagraph a, point (ii) of Directive 2009/138/EC, which are*** immediate ***and do not have an accumulation*** phase***.'***

▌

(2) in Article 3, paragraph 1 is replaced by the following:

'1. Where PRIIPs manufacturers subject to this Regulation are also subject to Regulation (EU) 2017/1129, this Regulation and Regulation (EU) 2017/1129 shall both apply.'

(3) Article 4 is amended as follows:

(a) ▌ point (1) ***is replaced by*** the following***:***

"1. 'packaged retail investment product' or 'PRIP' means an investment*, including instruments issued by special purpose vehicles as defined in point (26) of Article 13 of Directive 2009/138/EC or securitisation special purpose entities as defined in point (an) of Article 4(1) of the Directive 2011/61/EU of the European Parliament and of the Council (**), where, regardless of the legal form of the investment, the amount repayable to the retail investor is subject to fluctuations because of exposure to reference values or to the performance of one or more assets which are not directly purchased by the retail investor*** except if those fluctuations are only attributed to the inclusion of a make whole clause as defined in Article 4(1)(44a) of Directive 2014/65/EU.

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***** Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (OJ L 174, 1.7.2011, p. 1)."***

PUBLIC

(b) The following point ▌ is inserted:

"(7a) 'electronic format' means ***electronic format as defined in Article 4, point (62a), of Directive 2014/65/EU***;"

(4) ▌ Article 6 ***is amended as follows***:

(a) paragraph 2 is replaced by the following:

'2. The key information document shall be a stand-alone document, clearly separate from marketing communications. It shall not contain cross-references to marketing communications or any investment recommendations. It may contain cross-references to other documents including a prospectus where applicable, but only where the cross-reference is related to the information required to be included in the key information document by this Regulation.'

(b) paragraph 3 is replaced by the following:

'3. By way of derogation from paragraph 2, where a PRIIP offers the retail investor a range of options for investments, such that all information required in Article 8(3) with regard to each investment option cannot be provided within a single, concise stand-alone document, the key information document shall provide ***at least*** a generic description of the underlying investment options, and the costs of the PRIIP other than the costs for the investment option, provided that:

(a) PRIIPs manufacturers provide investors with tools adapted to retail investors that facilitate research and comparison among the different investment options ***that they offer***, including on costs ***of the underlying investment options and, where technically feasible, on (i) the total costs of the PRIIP, including those relating to the investment options and those relating to the insurance cover, referred to under point (c) and (ii) the risks and performance***;

PUBLIC

(b) ***The tools referred to in point (a) contain a link*** to the pre-contractual information documentation relating to the investment products backing the underlying investment options;

(c) PRIIPs manufacturers provide investors ***with the total costs of the PRIIP, including those relating to the investment options and those relating to the insurance cover,*** in good time before retail investors are bound by any contract or offer to invest in a given investment option***. This condition shall be also deemed satisfied when the total*** costs of the PRIIP***, including those*** relating to ***the*** investment ***options and those relating to the insurance cover, are provided to the investor in an electronic format via the tools referred to in point (a)***.'

▌

(5) Article 8 is amended as follows:

(a) in paragraph 3, point (aa) is added:

'(aa) under a section titled 'Product at a glance' a dashboard with summarised information about all of the following:

(i) the type of the PRIIP, as referred to in point (c)(i);

(ii) the summary risk indicator referred to in point (d)(i);

(iii) the total costs of the PRIIP;

(iv) the recommended holding period referred to in point (g)(ii);

(v) whether the PRIIP offers the insurance benefits referred to in point (c)(iv);'

PUBLIC

(b) in paragraph 3, point (b) is deleted

(c) in paragraph 3, point (c), point (ii) is replaced by the following:

"(ii) the PRIIP's financial objectives and the means for achieving those objectives, and in particular whether those objectives will be achieved by means of direct or indirect exposure to the underlying investment assets, including all of the following information:

(1) a description of the underlying instruments or reference values;

(2) a specification of the markets the PRIIP invests in;

(3) information about how the return is determined;

(3a) where applicable, specific sustainability related objectives, including environmental or social objectives, targeted by the product."

▌

(da) in paragraph 3, point (d), point (iii) is amended as follows:

'(iii) appropriate information on performance and, where relevant, the assumptions made to produce them;'

▌

PUBLIC

(ea) In paragraph 5, the introductory part of the first subparagraph is replaced by the following:

'5. In order to ensure consistent application of this Article and of Article 6(3), after conducting consumer testing, the ESAs shall, through the Joint Committee of the European Supervisory Authorities ('Joint Committee'), develop draft regulatory technical standards specifying: '

(ec) In paragraph 5, first subparagraph, the following point is added:

'(d) the minimum requirements for implementing the derogation in paragraph (3) of Article 6.'

(ed) In paragraph 5, the second subparagraph is replaced by the following:

'*When developing the draft regulatory technical standards the ESAs shall take into account the various types of PRIIPs, the differences between them and the capabilities of retail investors as well as the features of the PRIIPs so as to allow the retail investor to select between different underlying investments or other options provided for by the product, including where this selection can be undertaken at different points in time, or changed in the future. Where appropriate in order to provide fair, clear and not misleading information to retail investors, different approaches may be taken between different types of products. In addition, when developing the draft regulatory technical standards, the ESAs shall ensure that Key Information Documents present essential information in a streamlined, standardised and user-friendly format to allow for comparability, including simplified cost disclosure and where relevant making use of tables and graphs to improve clarity. For the purpose of this paragraph, simplified cost disclosure shall take into account a user-friendly presentation of both the total cost and the breakdown of costs borne by the retail investor. To allow the investor to easily understand this document the ESAs shall also ensure that the information provided in the key information documents is limited to what is strictly necessary.'*

PUBLIC

(f) In paragraph 5, the third subparagraph is replaced by the following:

'When developing the draft regulatory technical standards, the ESAs shall assess, paying due regard to the implementation costs for companies, the circumstances under which it is technically feasible to include in the tool referred to in point (a) of Article 6(3):

(i) the total costs of the PRIIP, including those relating to the investment options and those relating to the insurance cover; and

(ii) the risk and performance information.

This assessment shall also cover cases of risk and performance information relating to the combination of different underlying investment options.

Where the ESAs conclude that technical feasibility is limited or implementation costs disproportionate, they may propose a simplification of calculation or other technical parameters that would allow to display the level of total cost, the risks and performance.

When developing the draft regulatory technical standards, the ESAs shall ensure that the appropriate information on performance is comparable across different types of PRIIPs. Information on performance in the form of performance scenarios and presented in the key information document for all types of PRIIPs could, where considered relevant for certain types of PRIIPs, be combined with information on past performance. This information shall be presented in a way that allows the investor to easily understand performance, including the relation between performance scenarios and past performance.

PUBLIC

The ESAs shall submit those draft regulatory technical standards to the Commission by … [PO please insert the date ***= 12 months*** after the date of entry into force of this amending Regulation]. ▌ ’

(fa) the following paragraph is added:

'6. By 31 December 2030 and following the implementation of PRIIPs KIDs into ESAP, the Commission shall prepare a report on the introduction of an EU wide comparison tool for PRIIPs. That report shall provide a feasibility study, including an assessment of impacts, costs and benefits, of such a comparison tool.

Where appropriate, the report shall be accompanied by a legislative proposal for an EU wide comparison tool for all or a subset of PRIIPs.'

(5a) In Article 10, paragraph 1, the following sentence is added:

‘The requirement to review and revise the key information document shall cease to apply where the PRIIP is no longer made available nor open to new subscription, and cannot be purchased on a secondary market.’

▌

PUBLIC

(6a) In Article 13, paragraph 4 is amended as follows:

'4. Where successive transactions regarding the same PRIIP are carried out on behalf of a retail investor in accordance with instructions given by that retail investor to the person selling the PRIIP prior to the first transaction, the obligation to provide a key information document under paragraph 1 shall apply only to the first transaction, and a short overview of any material changes shall be provided where the key information document has been revised in accordance with Article 10.

The latest version of the key information document shall be provided to the retail investor upon request.'

(7) Article 14 is replaced by the following:

'Article 14

1. The person advising on, or selling, a PRIIP shall provide the key information document to retail investors free of charge. The information shall be provided in an electronic format, unless the retail investor has requested to receive the key information document on paper. The person advising on, or selling a PRIIP shall inform the retail investors about their right to receive the key information document on paper free of charge. ***The content of the key information document in an electronic format and on paper shall be the same.***

2. The key information document may be presented in a layered format. In that case, the dashboard referred to in Article 8(3), point (aa) shall appear in the first layer.

3. The retail investor shall be notified electronically, or in ***paper*** form, of the address of the website, and the place on the website where the key information document can be accessed.

4. The key information document shall remain accessible on the website of the ***manufacturer***, and shall remain capable of being downloaded and stored in a durable medium, for such period of time as the retail investor may need to consult it. Where the PRIIP manufacturer has revised the key information document as referred to in Article 10, the PRIIP manufacturer shall provide the retail investors with previous versions upon request.***'***

(7a) point (a) of Article 29a, paragraph 1, second subparagraph, is replaced by the following:

'(a) be submitted in a data extractable format as defined in Article 2, point (3), of Regulation (EU) 2023/2859 and as of [OJ please insert date = 30 months after entry into force of this amending Regulation], in a machine-readable format, as defined in Article 2, point (4), of that Regulation;'

(8) Article 30 is replaced by the following:

'Article 30

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

PUBLIC

2. The power to adopt delegated acts referred to in Article 16(8) and Article 17(7) shall be conferred on the Commission for a period of three years from 30 December 2014. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the three-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Article 16(8) and Article 17(7) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Article 16(8) or Article 17(7) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of three months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or of the Council.'

PUBLIC

Article 2

Entry into force and application

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union. It shall apply from [PO please insert the date = ***30*** months after the date of entry into force of this amending Regulation]. ***However, Article 1, points 1, 2 and 3(a) shall apply from ... [PO please insert the date = entry into force of this amending Regulation].***

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

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*

A statement has been made with regard to this Regulation and can be found in OJ C, [OJ: please insert].

PUBLIC