September 2021

Joint response to the European Commission's open consultation on the proposal for a Regulation on packaged retail and insurance-based investment products (PRIIPs)

The European Commission adopted its amendments to the Packaged Retail and Insurance-based Investment Products (PRIIPs) Regulation and the Undertakings for Collective Investment in Transferable Securities (UCITS) Directive. However, in contrast to earlier plans, the adoption of the draft Regulatory Technical Standards (RTS) amending Commission Delegated Regulation (EU) 2017/653 has been postponed to 7 September. Both Level 1 and Level 2 proposed amendments are now subject to the scrutiny of the European Parliament and Council.

Despite this fragmented process, the European Commission is proposing to maintain 1 July 2022 – in both the Level 1 and Level 2 proposed amendments – as the date the new requirements apply to all product manufacturers, including those offering multi-option products (MOPs) with UCITS as underlying investment options.

The unexpected delay to the adoption of the revised PRIIPs RTS cuts the implementation period for the industry by more than two months. This leaves PRIIPs manufacturers and distributors with a too short period instead of the original timeframe of 12 months to implement the new rules.

The currently proposed implementation period is too short, especially for new rules that relate to communication with investors and potential investors. It will be important, if we are to achieve the desired outcomes of better trust and understanding among investors and potential investors, to ensure that manufacturers have adequate time to adapt to these changes. This will avoid the need for them to make subsequent adjustments, which would only cause more confusion and would be to the detriment of consumers and Europe's wider economy.

Any amendment to the PRIIPs RTS requires significant implementation efforts involving numerous departments and competences to interpret the new requirements, to gather new data, to make actuarial and financial calculations, to properly plan and make changes to software and other IT systems, to redesign the templates, to test the calculations and design, to legally assess the narratives and figures, to possibly translate them into different languages, to draft new documents and to adapt the training for distributors, in addition to the digital developments beyond the PRIIPs KID to implement the new website disclosure requirements, etc.

Moreover, the PRIIPs value chain involves many stakeholders that are dependent on each other during the implementation of the RTS. For example, many PRIIPs that are sold by insurers are MOPs that provide investors with a combination of different underlying funds. Where the underlying funds are UCITS, insurers need the data and documents produced by UCITS providers to comply with the PRIIPs Regulation. As the new rules will apply to both insurers and UCITS providers, MOPs providers will need sufficient time to collect the data from UCITS providers — once available based on the new rules — and to update all their existing pre-contractual information for MOPs, update and store all KIDs on their websites, etc.

This requires a long structural dialogue between insurers and asset managers in order to agree on the practicalities of data exchanges. An implementation period that is too short could lead to poor implementation of the rules or even force some operators to suspend the distribution of certain retail investment products, which would be detrimental to consumers' participation in the capital markets and trust in the information they receive.

Therefore, to ensure an orderly and smooth implementation and application of the revised RTS, we urge to **maintain a 12-month implementation period from the adoption of the RTS proposals as the minimum time needed for all products and all market participants**.

A synchronised application date for all products (IBIPs, UCITS, MOPs, etc.) and providers (insurers, asset managers, etc.) for both the Level 1 and Level 2 amendments will be key. In this respect, we would like to highlight to the fact that Article 18 of the current PRIIPs RTS - which allows insurers to rely on the derogation in Article 14(2) of the PRIIPs RTS and to use the UCITS KIIDs for the provision of information on underlying funds for MOPs - is independent of any changes to the date of application of the UCITS exemption. The extension of the UCITS exemption will therefore not prevent Article 14(2) from expiring in December 2021, as currently stated in Article 18. This would pose significant practical difficulties for providers currently making use of the derogation in Article 14(2), as they would be required to produce their own PRIIPs KIDs for each underlying fund by the end of this year. This would also entail a substantial compliance burden for insurers and asset managers. They would be required to produce entirely new data to populate the PRIIPs KIDs by a deadline that is much too short, and where the data simply could not be produced on time, the range of products offered to consumers would ultimately decrease. To ensure a consistent transitional regime across providers, the necessary legal certainty while UCITS remain exempted from the PRIIPs Regulation and a smooth implementation of the new PRIIPs RTS, we therefore reiterate the **importance to align the expiry date of Article 18 of the PRIIPs RTS with the new end date of the UCITS exemption**.

As the political scrutiny of the revised RTS by the European Parliament and the Council will also take some time, we would also appreciate an expedited procedure by the co-legislators to facilitate publication in the EU Official Journal as soon as possible and a smooth implementation of the new rules.

We remain at your disposal should you require more information, or should you or your services wish to discuss this issue further.