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) (Text with EEA relevance)

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)

(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 Central Bank[(1)],

Having regard to the opinion of the European Economic and Social Committee[(2)],

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) Retail investors are increasingly offered a wide variety of packaged retail and insurance-based investment products (PRIIPs) when they consider making an investment. Some of these products provide specific investment solutions tailored to the needs of retail investors, are frequently combined with insurance coverage or can be complex and difficult to understand. Existing disclosures to retail investors for such PRIIPs are uncoordinated and often do not help retail investors to compare different products, or understand their features. Consequently, retail investors have often made investments without understanding the associated risks and costs and have, on occasion, suffered unforeseen losses.

(2) Improving the transparency of PRIIPs offered to retail investors is an important investor protection measure and a precondition for rebuilding the confidence of retail investors in the financial market, in particular in the aftermath of the financial crisis. First steps in this direction have already been taken at Union level through the development of the key investor information regime established by Directive 2009/65/EC of the European Parliament and of the Council[(3)].

(3) The existence of different rules on PRIIPs, that vary according to the industry offering the PRIIPs and differences in national regulation in this area create an unlevel playing field between different products and distribution channels, erecting additional barriers

Changes to legislation: *There are outstanding changes not yet made to Regulation (EU) No 1286/2014 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

to an internal market in financial services and products. Member States have already taken divergent and uncoordinated action to address shortcomings in investor protection measures and it is likely that this development would continue. Divergent approaches to disclosures relating to PRIIPs impede the development of a level playing field between different PRIIP manufacturers and those advising on, or selling, these products, and thus distort competition and lead to unequal levels of investor protection within the Union. Such divergence represents an obstacle to the establishment and smooth functioning of the internal market.

(4) To prevent divergence, it is necessary to establish uniform rules on transparency at Union level which will apply to all participants in the PRIIPs market and thereby enhance investor protection. A regulation is necessary to ensure that a common standard for key information documents is established in a uniform fashion so as to be able to harmonise the format and the content of those documents. The directly applicable rules of a regulation should ensure that all those advising on, or selling, PRIIPs are subject to uniform requirements in relation to the provision of the key information document to retail investors. This Regulation has no effect on the supervision of advertising documents. Moreover, it has no effect on product intervention measures other than in relation to insurance-based investment products.

(5) Whilst improving disclosures relating to PRIIPs is essential in rebuilding the trust of retail investors in the financial markets, effectively regulated sales processes for those products are equally important. This Regulation is complementary to measures on distribution in Directive 2014/65/EU of the European Parliament and of the Council[(4)]. It is also complementary to measures taken on the distribution of insurance products in Directive 2002/92/EC of the European Parliament and of the Council[(5)].

(6) This Regulation should apply to all products, regardless of their form or construction, that are manufactured by the financial services industry to provide investment opportunities to retail investors, where the amount repayable to the retail investor is subject to fluctuation because of exposure to reference values, or subject to the performance of one or more assets which are not directly purchased by the retail investor. Those products should be known as PRIIPs for the purposes of this Regulation and should include, among other things, investment products such as investment funds, life insurance policies with an investment element, structured products and structured deposits. Financial instruments issued by special purpose vehicles that conform to the definition of PRIIPs should also fall within the scope of this Regulation. For all those products, investments are not of the direct kind that is achieved when buying or holding assets themselves. Instead these products intercede between the retail investor and the markets through a process of packaging or wrapping together assets so as to create different exposures, provide different product features, or achieve different cost structures as compared with a direct holding. Such packaging can allow retail investors to engage in investment strategies that would otherwise be inaccessible or impractical, but can also require additional information to be made available, in particular to enable comparisons between different ways of packaging investments.

***Changes to legislation:** There are outstanding changes not yet made to Regulation (EU) No 1286/2014 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(7) In order to ensure that this Regulation applies solely to such PRIIPs, insurance products that do not offer investment opportunities and deposits solely exposed to interest rates should be excluded from the scope of this Regulation. In the case of life insurance products, the term 'capital' means capital that is invested on the request of the retail investor. In addition, any deposit or certificates which represent traditional deposits, other than structured deposits as defined in point (43) of Article 4(1) of Directive 2014/65/EU should be excluded from the scope of this Regulation. Assets that are held directly, such as corporate shares or sovereign bonds, are not PRIIPs, and should therefore be excluded from the scope of this Regulation. Investment funds dedicated to institutional investors are excluded from the scope of this Regulation since they are not for sale to retail investors. Individual and occupational pension products, recognised under national law as having the primary purpose of providing the investor with an income in retirement, should be excluded from the scope of this Regulation, in consideration of their peculiarities and objectives, whereas other individual insurance accumulation or saving products that offer investment opportunities should be covered by this Regulation.

(8) This Regulation does not prejudice the right of Member States to regulate the provision of key information on products that fall outside its scope. In accordance with their mandate for consumer protection under Article 9 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council[(6)], of Regulation (EU) No 1094/2010 of the European Parliament and of the Council[(7)] and of Regulation (EU) No 1095/2010 of the European Parliament and of the Council[(8)], the European Supervisory Authority (European Banking Authority) ('EBA'), the European Supervisory Authority (European Insurance and Occupational Pensions Authority) ('EIOPA') and the European Supervisory Authority (European Securities and Markets Authority) ('ESMA') established by those Regulations (the 'ESAs') should monitor the products which are excluded from the scope of this Regulation and, where appropriate, should issue guidelines to address any problem which is identified. Such guidelines should be taken into account in the review, to be conducted four years after the entry into force of this Regulation, on the possible extension of the scope and the elimination of certain exclusions.

(9) To provide clarity on the relationship between the obligations established by this Regulation and obligations established by other legislative acts requiring the provision of information to investors, including but not limited to Directive 2003/71/EC of the European Parliament and of the Council[(9)] and Directive 2009/138/EC of the European Parliament and of the Council[(10)], it is necessary to establish that those legislative acts continue to apply in addition to this Regulation.

(10) To ensure orderly and effective supervision of compliance with the requirements of this Regulation, Member States should designate the competent authorities responsible for that supervision. In many cases, competent authorities are already designated to supervise other obligations of PRIIP manufacturers, sellers or advisors, arising from other provisions of national and Union law.

Changes to legislation: *There are outstanding changes not yet made to Regulation (EU) No 1286/2014 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(11) The competent authorities should be provided, upon request and including ex ante, with all necessary information to verify the contents of the key information documents, to assess compliance with this Regulation and to ensure the protection of clients and investors in financial markets.

(12) PRIIP manufacturers — such as fund managers, insurance undertakings, credit institutions or investment firms — should draw up the key information document for the PRIIPs that they manufacture, as they are in the best position to know the product. They should also be responsible for the accuracy of the key information document. The key information document should be drawn up by the PRIIP manufacturer before the product can be sold to retail investors. However, where a product is not sold to retail investors, there should be no obligation to draw up a key information document, and where it is impractical for the PRIIP manufacturer to draw up the key information document, it should remain possible for this task to be delegated to others. The obligations under this Regulation which are laid down in the provisions on drawing up, and the rules on revision of, the key information document should apply only to the PRIIP manufacturer and should continue to apply for as long as the PRIIP is traded on secondary markets. In order to ensure widespread dissemination and availability of key information documents, this Regulation should provide for publication by the PRIIP manufacturer of key information documents on its website.

(13) To meet the needs of retail investors, it is necessary to ensure that information on PRIIPs is accurate, fair, clear and not misleading for those retail investors. This Regulation should therefore lay down common standards for the drafting of the key information document, in order to ensure that it is comprehensible to retail investors. Given the difficulties many retail investors have in understanding specialist financial terminology, particular attention should be paid to the vocabulary and style of writing used in the document. Rules should also be laid down on the language in which the key information document should be drawn up. Furthermore, retail investors should be able to understand the key information document on its own without referring to other non-marketing information.

(14) When developing the technical standards for the content of the key information document so as to reflect accurately the product's investment policies and its objectives in accordance with this Regulation, the ESAs should ensure that the PRIIP manufacturer uses clear and understandable language which is accessible to retail investors and that the description of how the investment targets are achieved, including the description of the financial instruments used, avoids financial jargon and terminology which is not immediately clear to retail investors.

(15) Retail investors should be provided with the information necessary for them to make an informed investment decision and compare different PRIIPs, but unless the information is short and concise there is a risk that they will not use it. The key information document should therefore only contain key information, in particular as regards the nature and features of the product, including whether it is possible to lose capital, the costs and risk profile of the product, as well as relevant performance information, and certain

***Changes to legislation:** There are outstanding changes not yet made to Regulation (EU) No 1286/2014 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

other specific information which may be necessary for understanding the features of individual types of product.

(16) Investment product calculators are already being developed at national level. However, in order that the calculators are as useful as possible to consumers, they should cover the costs and fees charged by the various PRIIP manufacturers, together with any further costs or fees charged by intermediaries or other parts of the investment chain not already included by the PRIIP manufacturers. The Commission should report on whether those tools are available on-line in each Member State and whether they provide for reliable and accurate computations of aggregate costs and fees for all products within the scope of this Regulation.

(17) The key information document should be drawn up in a standardised format which allows retail investors to compare different PRIIPs, since consumer behaviour and capabilities are such that the format, presentation and content of information must be carefully calibrated to maximise understanding and use of information. The same order of items and headings for these items should be followed for each document. In addition, the details of the information to be included in the key information document for different PRIIPs and the presentation of this information should be further harmonised through regulatory technical standards that take into account existing and ongoing research into consumer behaviour, including results from testing the effectiveness of different ways of presenting information with consumers. In addition, some PRIIPs give the retail investor a choice between multiple underlying investments, such as internal funds held by insurance undertakings. Those products should be taken into account when drawing up the format.

(18) As some of the investment products within the scope of this Regulation are not simple and may be difficult for retail investors to understand, the key information document should, where applicable, include a comprehension alert to the retail investor. A product should be regarded as not being simple and as being difficult to understand in particular if it invests in underlying assets in which retail investors do not commonly invest, if it uses a number of different mechanisms to calculate the final return of the investment, creating a greater risk of misunderstanding on the part of the retail investor or if the investment's pay-off takes advantage of retail investor's behavioural biases, such as a teaser rate followed by a much higher floating conditional rate, or an iterative formula.

(19) Increasingly, retail investors pursue, along with the financial returns on their investment, additional purposes such as social or environmental goals. However, information on social or environmental outcomes sought by the PRIIP manufacturer can be difficult to compare or may be absent. Therefore, anticipated sustainable environmental and social developments in financial investments, as well as the application of Regulation (EU) No 346/2013 of the European Parliament and of the Council[11] could allow for such aspects to be more appropriately integrated into, and further fostered by, Union law. However there are no established criteria and there is no formal procedure to verify such social or environmental criteria objectively, as there already are in the food sector. Therefore, it is desirable that in its review of this Regulation the Commission thoroughly