



Additional comments relating to the draft RTS not covered in the Questions

In addition to our responses to the questions for consultation, we would like to submit the following detailed comments on the draft RTS and its Annexes:

1. Article 3: Identity section

Article 3(f) of the draft RTS requires the date of « any subsequent revision » to be included in the KID. The wording “any *subsequent* revision” could be misunderstood to refer to the dates of all the subsequent revisions, adding no useful information to the investor. **We therefore propose that the Article instead refers to the date of “the latest revision of the key information document”.**

2. Article 4: ‘What is this product?’ section

- **Article 4(3):** According to this provision, the description of the PRIIPs “underlying investments or reference values” has to be very detailed. A generic description is possible only where the “number of specific investments is large”. In case of UCITS the criterion of the number of investments is inadequate because UCITS investments are generally made on the basis of the principle of risk diversification. Also a considerable number of retail AIFs is managed on the basis of UCITS risk diversification rules or comparable rules for the specific market segment. In addition, actively managed UCITS and AIFs are not built upon a stable portfolio, but comprise assets which are bought and sold in accordance with the agreed investment strategy.

Therefore, more flexibility as regards the generic description under subparagraph (b) is needed. We would recommend supplementing Article 4(3)(b) in the following manner:

*(b) On underlying investment assets or reference values may only refer to market segments or instrument types where ~~the number of specific investments is~~ **are numerous or can be continuously purchased and sold according to the investment policy and strategy of the PRIIP**”*

- **Article 4(4):** Article 4(4) proposes to include “the target market identified by the PRIIP manufacturer’s product oversight and governance processes”. The referenced Article 8(3)(c) of the PRIIPs Regulation merely requires “a description of the type of retail investor to whom the PRIIP is intended to be marketed, in particular in terms of the ability to bear investment loss and the investment horizon”. The addition of “product oversight and governance processes” does not exist in the Level 1 Regulation and thus would require non-MiFID firms, such as UCITS management companies and AIFMs, to apply the MiFID II product governance and oversight rules for product manufacturers, which was not anticipated by the Level 1 Regulation.

Consequently, the above mentioned sentence should be amended as follows:

*“the description referred to in sub-paragraph (iii) of Article 8(3)(c) of Regulation (EU) No 1284/2014 shall reflect **the target market identified by the PRIIP manufacturer [...]**”*



Moreover, the ESAs' proposal goes even further by stating that these product oversight and governance processes need to take into account “the financial interests, knowledge, objectives and characteristics of the types of retail investors for whom the PRIIP has been designed...”. This is inconsistent with the product oversight and governance processes¹⁸ requirement of the to-be-released MiFID II Delegated Directive, which shall not require the product manufacturer to specify a target market according to financial interests, knowledge and objectives of investors. The PRIIP KID regime is meant to define standards of product disclosure and should not introduce new governance requirements through the Level 2 measures.

3. Article 7: ‘What happens if [the name of the PRIIP manufacturer] is unable to pay out?’ section

An additional paragraph providing information on the structure of funds is necessary in order to correspond with para. 2 on investor compensation and guarantee schemes. This paragraph should explain that a fund’s assets are structurally separated from the management company’s own funds and safeguarded by a depositary. A pay-out of the fund’s assets is thus not affected by a management company’s financial position or potential default.

4. Article 10: ‘How can I complain?’ section

Article 10(1) and (2) require the PRIIP manufacturer to provide information on “the person advising on, or selling, the PRIIP on the relevant website”. This assumes a direct connection between the PRIIP manufacturer and distributor, which is not always the case. In particular, for funds information about who will be advising on or selling the PRIIP cannot be determined by the manufacturer in advance. Funds providers generally maintain distribution networks with different intermediaries involved, but it is also quite frequent that fund units are sold by distributors with whom no distribution agreement exists. **Therefore, the reference to the person advising on, or selling, the PRIIP should be deleted.**

5. Article 11: ‘Other relevant information’ section

The phrasing “without prejudice to ad hoc reviews” proposed in Article 11(3) should not be part of the information on the updating period. It could just be omitted because this information is not relevant for the investor and conflicts with the plain language requirement as well as with the restriction in length to three pages.

6. Article 17: Ad hoc review of the key information document

Article 17 is missing an all-important “materiality” reference. This is inconsistent with the UCITS KIID Regulation which ensures that only material changes trigger an ad-hoc review of the KIID¹⁹. Limitation to material changes is very relevant in practice, as it avoids reviewing the key information due to some minor and inconsequential changes and thus, helps reducing the administrative burden associated with the maintenance of the KID. The materiality test should focus on the impact of a given change on the investment risk, return scenarios and/or cost from the investors’ perspective.

¹⁸ MiFID II Commission Delegated Directive; Article 9(9)-(12)

¹⁹ Cf. Article 22(3) of Regulation (EU) 583/2010.