EFAMA

European Fund and Asset Management Association

EFAMA DEMANDS MORE TIME TO IMPLEMENT THE NEW PRIIPS RULES

01 February 2021

A flawed review process not tackling the heart of the issue

EFAMA has always made it clear that a revision of the PRIIPs Regulatory Technical Standard (RTS) falls short of conducting a proper Level 1 review. A review that is explicitly required by the Level 1 Regulation and is overdue for more than one year.

Indeed, this outstanding review is essential to, once and for all, settle the dilemma at the heart of the PRIIP KID: How can you create a fully homogenised retail investor document involving hugely diverging investment and insurance products while, at the same time, keeping the information both meaningful and not misleading? In our opinion, both goals can not be fully achieved simultaneously and some trade-off will have to be found between meaningful and comparable information. This conundrum cannot be solved only by making technical changes at RTS level – despite the ESAs' ongoing best efforts. We, therefore, understand and support industry associations and consumer representatives voicing their frustration that this issue is not tackled head-on through a Level 1 review.

Despite all these concerns, it looks likely that the Commission will push for the adoption of RTS changes ahead of a wider distribution review which is still several years away. If the Commission cannot be swayed, the only alternative is to fix some of the current KID's biggest flaws before fund investors are confronted with the PRIIP KID instead of the current and well-functioning UCITS Key Investor Information Document (KIID). **The ESAs' revised RTS are, therefore, a small step in the right direction and are, within the impossible confines imposed by the Level 1 Regulation and the Commission's mandate, as good as they can get.** For now!

The revised RTS have already been delayed for more than one year with 31 December 2021 deadline looming

Nevertheless, the Commission's original plan was to publish these new RTS by early 2020, ensuring that the financial industry would have sufficient time to implement wide-ranging changes before the end of 2021. This year's deadline was originally meant as the official extension of the PRIIP KID to retail funds after all the outstanding issues had been settled through the Level 1 review. As of today, however, the RTS are delayed by more than one calendar year and there is still not enough clarity as to how they will ultimately look or when this process will be finalised.

Time has already run out to allow for proper implementation

With only eleven months remaining, there is insufficient time left for fund managers (and other product manufacturers) to properly implement the envisaged wide-ranging changes, as we explain in more detail below.

EFAMA, therefore, insists that another extension of the UCITS exemption for twelve months (after the publication of the revised RTS in the EU Official Journal) is necessary to ensure proper implementation. This is a reasonable request as a result of the ongoing delays. In considering this request, it is important to bear in mind that the PRIIP KID is one of the most visible documents to retail investors, meant to empower them to make the right investment decisions. If these documents are not implemented correctly, an essential tool will be missing to achieve the Capital Market Union's goal of increased retail participation in the EU capital markets.

Switching from the UCITS KIID to the PRIIP KID is a massive operational undertaking

It is key to understand that implementing the new PRIIP KID rules is a massive operational undertaking involving many different stakeholders.

- ***A huge number of KIDs***: A PRIIP KID is produced for each fund's share class that is available to retail investors. For a medium-sized asset manager, this typically means producing thousands of KIDs. When taking translations into account, this figure can easily rise to five digits. **Conservative estimates point towards hundreds of thousands of KIDs in aggregate** – with one large Member State alone totalling around 140,000 PRIIP KIDs. This sheer volume means that processes must be automatised as far as possible. This, however, also needs sufficient preparation (see project lead times below).
- ***No clarity on the future requirements***: Fund managers cannot start implementation until the new RTS are finalised. However, we have no clarity whether the draft RTS (which were not approved by the ESAs in June) will be adopted as such or further amended. Even small changes can have huge consequences in terms of operational implementation. Also, due to the many fundamental changes envisaged, we expect that further Q&As by the ESAs will be inevitable to answer many of the open questions.
- ***Project lead time and global pandemic***: Due to the uncertainties surrounding the PRIIPs RTS at the end of 2020, fund managers were not able to allocate precise budgets and staff for PRIIPs in their IT plans for 2021. To add to that, the current pandemic with lockdowns and working-from-home requirements is making it much more difficult to implement changes as quickly as before. On top of this, fund managers are busy implementing SFDR Level 2 measures, Taxonomy Regulation as well as the new guidelines regarding cross-border marketing of collective investment undertakings.
- ***Data sources***: Producing the PRIIP KID requires a huge amount of data sources (some of which are very expensive) and the revised RTS make changes to the underlying calculation and presentation models. New data requirements must be identified, properly sourced and backtested to ensure flawless disclosures.
- ***Insurers***: In developing retro-plannings for the implementation of the revised PRIIPS KID, fund managers also need to take into account the fact that funds are routinely used as building blocks for PRIIPs insurance products that need to deliver their own PRIIP KID to investors. Once the final rules are known, a structured dialogue between fund managers and insurers (through FinDatEx's PRIIPs templates) needs to take place to agree on what new PRIIP data has to be made available. These complex technical discussions will take a couple of months at the very least. The current market expectation by the insurance industry is, though, to receive this agreed data, at least, three months before 31 December deadline.
- ***KID pre-approval***: Some EU Member States require the pre-approval of any disclosure documents by the relevant national authorities. Rushing the implementation process will also create unnecessary pressure on these regulators to approve thousands of KIDs in time.

The UCITS KIID must go once the switch to the PRIIP KID is completed

The impossibly tight implementation deadline aside, it is equally important to talk about the future of the UCITS KIID. The switch from the UCITS KIID to the PRIIP KID does not happen automatically and still requires timely legal changes to the UCITS Directive to ensure that retail investors are not presented with two KI(I)Ds simultaneously. **This process should mark the end of the UCITS KIID, meaning it should be fully deleted from the UCITS Directive.** Considerations to keep the document alive for professional investors is without merit. The UCITS KIID is and has always been a retail-investor document that is of little to no use for professional investors. It is also no longer fully MiFID-compliant and would require extensive revisions in the near future. Having two diverging different key information documents would also be a recipe for disaster.

EFAMA, therefore, insists that another extension of the UCITS exemption of twelve months is necessary to ensure proper implementation.

***

About EFAMA

EFAMA, the voice of the European investment management industry, represents 28 Member Associations, 57 Corporate Members and 23 Associate Members. At end Q3 2020, total net assets of European investment funds reached EUR 17.6 trillion. These assets were managed by more than 34,200 UCITS (Undertakings for Collective Investments in Transferable Securities) and almost 29,400 AIFs (Alternative Investment Funds). At the end of Q2 2020, assets managed by European asset managers as investment funds and discretionary mandates amounted to an estimated EUR 24.9 trillion.

More information is available at www.efama.org.

Contact

Andreas Stepnitzka
Senior Regulatory Policy Advisor
Andreas.stepnitzka@efama.org | +32 2 548 26 54