



EUROPEAN COMMISSION

Commissioner Mairead McGuinness
Financial Services, Financial Stability and Capital Markets Union

Brussels, 18 DEC. 2020
(2020)8504351

Dear Mr Campa,
Dear Mr Bernardino,
Dear Mr Maijoor,

By letter dated 20 July 2020¹ you informed the Commission about the outcome of the joint review that EBA, EIOPA and ESMA (also collectively, the European Supervisory Authorities or 'ESAs') conducted of the regulatory technical standards (hereinafter, 'RTS') laid down in Commission Delegated Regulation (EU) 2017/653² (hereinafter, the PRIIPs Delegated Regulation).

In October 2018, the European Supervisory Authorities initiated a review of the PRIIPs Delegated Regulation to facilitate the application of the PRIIPS framework to retail investment funds in order to end the exemption for UCITS funds to provide a PRIIPs Key Information Document. The exemption was initially set to lapse on 1 January 2021. Due to delays in the review, the co-legislators decided to extend the exemption by one year to 1 January 2022 by Regulation 2019/1156; at the same time they confirmed the overall approach to end the exemption in the recitals of Regulation 2019/1156³.

The review of the PRIIPs Delegated Regulation seeks to provide for an appropriate application of the rules under PRIIPs to retail investment funds. The review also aims at addressing the main technical issues that have emerged during the first years of application of the Delegated Regulation. Those concern in particular the calculation methodologies for, and presentation of, the performance scenarios, the summary cost indicators, the content and presentation of information on costs, the methodology for the calculation of transaction costs and the rules on costs for insurance investments offering a range of options for investment.

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¹ ESAs 2020 19.

² Commission Delegated Regulation (EU) 2017/653 of 8 March 2017.

³ Recital 14 to Regulation 2019/1156 lays down that: *"all institutions and supervisory authorities involved should endeavour to act as fast as possible to facilitate the termination of that transitional exemption"*.

The ESAs undertook two public consultations (a first one from November to December 2018⁴ and a second one from October 2019 to January 2020⁵) and solicited the advice from the ESAs' Stakeholder Groups⁶. The Commission also conducted a consumer testing study⁷.

Following this preparatory work, in compliance with the rules of procedure of the ESAs, a draft Final Report⁸ with the draft amending RTS in accordance with Article 8 paragraph 5 and Article 10 paragraph 2 of Regulation (EU) No 1286/2014⁹ (hereinafter, the PRIIPs Regulation) was submitted to the three Boards of Supervisors for approval in June 2020. Whilst the Final Report with the draft RTS was adopted by the EBA and ESMA Boards of Supervisors, it did not receive the support of a qualified majority at the EIOPA Board.

I understand that at the EIOPA Board of Supervisors, some national competent authorities called for a broader review of the PRIIPs Regulation (level 1) and for a more comprehensive analysis of certain issues related to the comparability of similar investment products.

Such a holistic assessment is envisaged as part of the new Capital Markets Union action plan. The retail investment strategy (due in the first half of 2022) will aim at identifying any potential shortcomings and proposing remedying measures to ensure that retail investors can take full advantage of capital markets and that rules are coherent across legal instruments. The retail investment strategy will be based on solid evidence in the form of an extensive study (due by end 2021) and robust consumer testing to assess the combined effect of the retail policy framework from the retail consumer's perspective.

This thorough analysis could be the basis for the review of the PRIIPs Regulation, but also of other sectoral legislation in relation to product information (including insurance legislation).

In the meantime, the Commission needs to make urgent amendments to the PRIIPs Delegated Regulation based on a RTS. The Commission needs to adapt the Delegated Regulation to ensure its appropriate application to retail investment funds, as of January 2022. The European Parliament and the Council in the Cross-Border Regulation called on all institutions and supervisory authorities involved to endeavour to act as fast as possible to facilitate the termination of the temporal exemption for retail investment funds. If the Commission does not adopt such amendments, the current methods would not be adjusted for such retail investment funds.

To revise the Delegated Regulation, the Commission intends to use the powers delegated to it, in line with the Commission's institutional prerogatives under Article 290 TFEU.

⁴ Joint Consultation Paper concerning amendments to the PRIIPs KID, JC 2018 60.

⁵ Joint Consultation Paper concerning amendments to the PRIIPs KID, JC 2019 63.

⁶ Securities and Markets Stakeholder Group's Response to the ESAs Joint Consultation Paper concerning amendments to the PRIIPs KID, ESMA22-106-2077.

⁷ Consumer testing services - Retail investors' preferred option regarding performance scenarios and past performance information within the Key Information Document under the PRIIPs framework, FISMA/2019/016/C.

⁸ Annex to Letter ESA 2020 19 - Draft Final Report following consultation on draft regulatory technical standards to amend the PRIIPs KID (NOT APPROVED) concerning amendments to Commission Delegated Regulation (EU) 2017/653 of 8 March 2017 on key information documents (KID) for packaged retail and insurance-based investment products (PRIIPs), JC 2020 66.

⁹ 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).

Pursuant to the principle of mutual sincere cooperation under Article 13 paragraph 2 TEU, the Commission invites EBA, EIOPA and ESMA to jointly submit the draft RTS, in accordance with Article 8 paragraph 5 and Article 10 paragraph 2 of the PRIIPs Regulation in conjunction with Articles 10 of the ESAs Founding Regulations¹⁰, amending the RTS laid down in the Delegated Regulation at the earliest opportunity, and at the latest within a period of six weeks following the receipt of this letter.

In the event the ESAs do not deliver the draft RTS within the timeframe indicated above, the Commission reserves the possibility to take all necessary steps to preserve and exercise its institutional prerogatives under Article 290 TFEU.

I would like to sincerely thank you, the ESAs and national competent authorities for the hard work on this complex matter during the last years. As the work is technically finalised, I trust that national competent authorities will be able to overcome the difficulties and will adopt the draft amending RTS. The PRIIPs framework is a substantial package that has been delivered professionally. I therefore continue to count on your joint efforts.

Yours sincerely,



Mairead McGuinness

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¹⁰ 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), 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) 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).