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PRIIPS REGULATION

Information is key

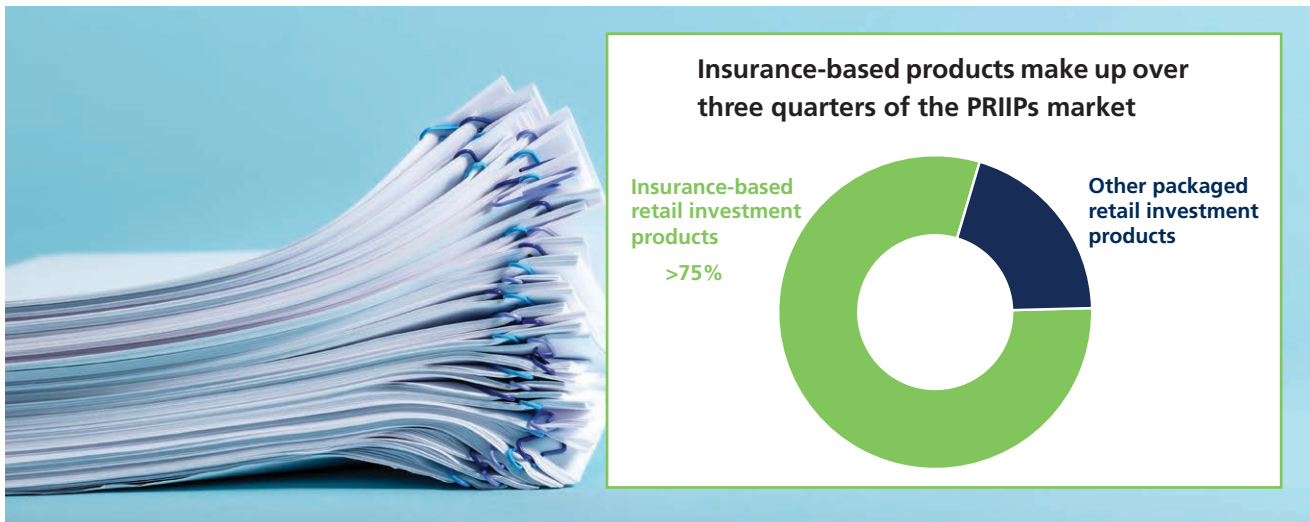
Quality must come before speed
in the changes needed to make
the key information documents
for PRIIPs work for customers

Providing consumers with clear and accurate information is vital to help them make good investment decisions. The key information documents (KIDs) produced in accordance with the EU's Packaged Retail and Insurance-based Investment Products (PRIIPs) Regulation do not, however, always do this. KIDs can fall short of giving the "fair, clear and not misleading" information they are meant to, and it is easy to see why.

Policymakers embarked on designing the PRIIPs KID without a clear idea of the products and providers they were aiming to regulate. Insurance companies are the major providers of PRIIPs, but the Regulation was not drafted with insurers in mind. Instead, the focus was on investment funds which, for the most part, are temporarily exempted from the rules.

Not only does this make the KID unsuitable for insurance products, it also means it fails to respect the variation between insurance products and prevents insurers from providing accurate information on the range of features they can offer. Nowhere is this problem more obvious than the "what is this product?" section, which prioritises information on investment strategies over basic details of the insurance coverage included.

PRIIPs has the very simple objective of informing investors about products using language they can understand. This should have made it easier to compare products' costs, performance and risk.



Unfortunately, comparing products using the PRIIPs KID is almost impossible. The focus on creating a standardised document has led to a concerning level of prescriptiveness that puts uniformity of appearance ahead of accuracy.

The problems with the KID persist despite, or even because, of a series of measures intended to address its most serious flaws. There has been a steady stream of questions and answers, delays, guidance, supervisory statements and proposed RTS changes (see timeline on p48) that have isolated specific issues and attempted to address them individually. Throughout, policymakers and the industry have had no time to step back and look at where things went wrong in the first place.

Rushed proposals

In 2020, this culminated in a further set of flawed proposals to amend the PRIIPs KID, coming as the result of political pressure and an apparent urgency to “get something done” before UCITS funds come within the scope of the Regulation in 2022.

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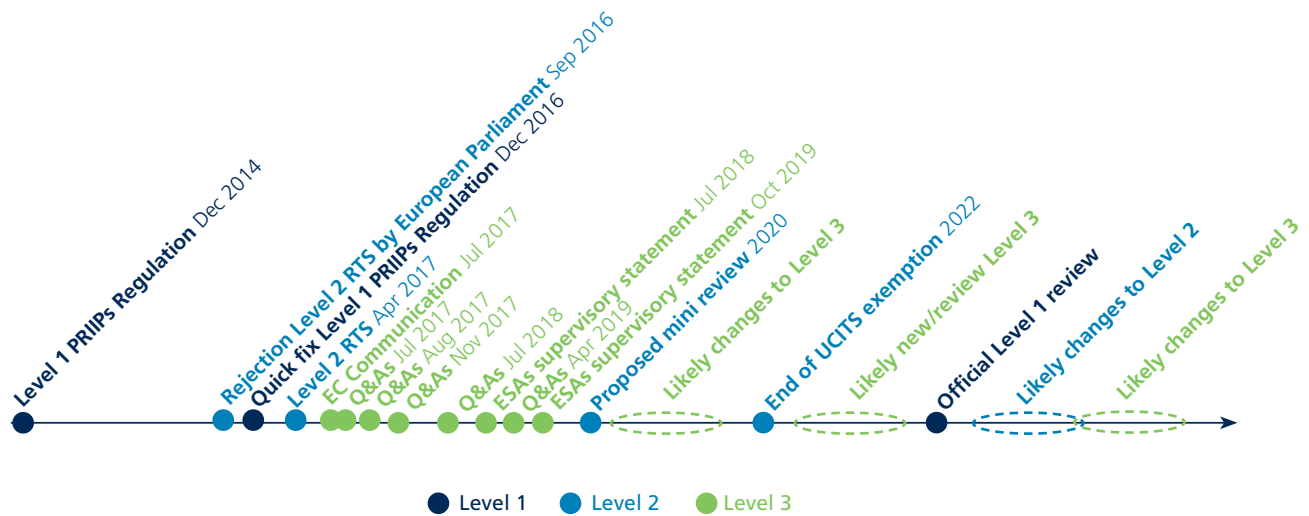
The proposed changes looked set to make matters even worse; introducing a range of new ways of presenting the likely performance of products through links to other documents, “backward-looking scenarios” and room for discretion for PRIIPs producers to use lower estimations of future returns, all while leaving the problematic existing methodology in place for insurers’ non-linear and guaranteed products. On costs, the previous need for absolute comparability was set aside, but only to introduce a much weaker cost indicator for most investment funds. And again, the needs of insurance customers were sidelined, with the proposed treatment of multi-option products — a key product type in many markets — having no grounding in reality.

The EIOPA Board of Supervisors was right in July 2020 to reject these fundamentally flawed proposals. Until there is another look at how to address the tension between broad scope and comparability and to reassess the prescriptiveness in the rules, no amount of small changes will create a workable Regulation.

Flawed process, flawed outcomes

The insurance industry expressed concerns early on that the flawed process for adopting the regulatory technical standards (RTS) governing the form and content of the PRIIPs KID would lead to flawed outcomes. No new rules benefit from not being tested and to a large extent the PRIIPs RTS were not. The testing

Continual changes to the PRIIPs framework



carried out on the original KID was far too limited, excluding some markets and many variants of insurance-based investment products. The latest round of proposals for RTS changes were subject to testing that was even more limited in scope.

Had the European Commission and the supervisory authorities really looked at how their proposals worked for everything in the scope of PRIIPs, it would have been clear at every stage that they fell short. Rules that work for all products can only be devised if they are really tested. And when some ideas fail during testing, new proposals must be devised and tested. The quick fixes seen so far have been adopted in a timeframe that does not allow for this kind of evidence-based approach.

Doing the right thing

Too much time has been lost on doing the wrong thing. It is now urgent to consider how to approach the problem of the PRIIPs KID differently. The good news is that the Commission is already doing the right thing.

A study has been launched to look at the KID in its entirety and in conjunction with all other legislation covering the information provided to consumers. It will include consumer-testing, legislative-mapping and mystery-shopping exercises and will look at a broader range of products than any previous testing. It is vital that this study takes a rigorous approach to assessing

the problems with PRIIPs and that it reframes the discussion to focus on consumers and their needs and experiences.

And then? The necessary time must be taken to find solutions that really work for all products before changes are made. With the current proposed changes on hold, insurers, NGOs, regulators and policymakers need to use the breathing space to go back to the drawing board and come up with new ways of presenting information that offer real benefit for consumers.

This will mean looking again at how information can be presented digitally, and at how the new digital landscape is shaping consumers' expectations. Is the idea that consumers need comparability between all product types outdated in a world where consumers expect to be digitally guided to the type of product that suits them best? If so, a rethink is needed about how best to arm consumers with useful information for making investment decisions in this digital environment.

It will also mean grappling again with the controversial issues around presenting costs and performance for each of the diverse product types covered by PRIIPs. The EC's work on assessing the current regulatory environment will be a solid foundation on which to carry this out. An evidence-based approach to fixing the KID is the only way to meet consumers' need for fair and accurate information that supports their investment choices. ■