HM Treasury

Amendments to the Packaged Retail Investment and Insurance-based Products Regulation:

July update

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ISBN 978-1-913635-58-9 PU 2993

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Background

In the 23 June Financial Services Written Ministerial Statement, the government announced its intention to bring forward legislation to improve the functioning of the Packaged Retail Investment and Insurance-based Products (PRIIPs) regime in the UK and address potential risks of consumer harm and distortions to competition in response to industry and regulator feedback.

The PRIIPs Regulation sets the requirements for a standardised disclosure document, known as the Key Information Document (KID), that must be provided to retail investors when they purchase particular packaged investment products, known as PRIIPs.

The KID must contain certain information on the product in question, including:

- Information about the product and its objectives
- The potential risk and returns associated with the product
- Performance scenarios illustrating hypothetical future performance under a range of assumed market conditions
- Information regarding compensation that the investor may be entitled to if the PRIIPs manufacturer fails to pay out
- The costs associated with investing in the product
- An indication of the recommended holding period for the product and information about the potential consequences if the investor exits their investment early

The methodologies for calculating transaction costs, producing performance scenarios and assessing Summary Risk Indicators (SRIs), along with detailed requirements on how information is to be presented in the KID, are set out in EU Regulatory Technical Standards (RTS). This will form part of the retained EU law once the UK leaves the Transition Period.

This policy statement provides an update on HM Treasury's proposed approach to bringing forward amendments to the onshored PRIIPs Regulation to avoid consumer harm and provide the appropriate certainty to industry once the UK ceases to be bound by the EU regime. These amendments will enable the FCA to make supplementary provisions and amendments to the RTS with a view to avoiding consumer harm, addressing distortions of competition, and providing the appropriate certainty to industry. From the end of the Transition Period, the FCA will have the power to change the RTS and intends to explore potential solutions to rectify concerns with the Regulation. The proposed amendments target only the most pressing concerns with the PRIIPs Regulation and are intended to ensure that UK retail investors are provided with more appropriate PRIIPs disclosures. In the longer term, HM Treasury intends to conduct a more wholesale review of the disclosure regime for UK retail investors. This review will explore, for example, how to harmonise the PRIIPs regime with requirements set out in the Markets in Financial Instruments Directive (MiFID) II.

Current legislative context

Regulation (EU) No. 1286/2014, the 'PRIIPs Regulation' was transposed into UK law by the Packaged Retail and Insurance-based Investment Products Regulation 2017 which entered into force on 1 January 2018.

HMT subsequently 'onshored' the PRIIPs Regulation in the Packaged Retail and Insurance-based Investment Products (Amendment) (EU Exit) Regulations 2019 using powers under the European Union (Withdrawal) Act 2018.

The PRIIPs Regulation is supplemented by regulatory technical standards laid down in the Commission Delegated Regulation (EU) 2017/653 ('RTS') that set out further detail of the requirements under PRIIPs. At the end of the Transition Period, the FCA will be able to update and amend these RTS.

HM Treasury plans to bring forward amendments to the onshored PRIIPs Regulation to improve the functioning of the PRIIPs regime in the UK when parliamentary time allows. (These amendments are the subject of this policy statement.)

Chapter 2

HM Treasury's legislative approach

HM Treasury intends to make the following changes to the onshored PRIIPs Regulation.

1. An amendment enabling the FCA to clarify the scope of the PRIIPs Regulation through their rules.

There is currently significant uncertainty in industry as to the precise scope of PRIIIPs, such as with respect to corporate bonds. There is evidence that where industry is uncertain about the applicability of PRIIPs to an investment product, retail issuance of that product has decreased. This may have reduced consumer choice and could mean that retail investors currently holding such products find it harder to exit their investment.

HM Treasury proposes an amendment which delegates a power to the FCA to clarify the scope of PRIIPs through their rules. This would enable the FCA to address existing, and potentially future, ambiguities in relation to certain types of investment product. The definition of a PRIIP will remain unchanged.

2. An amendment to replace 'performance scenario' with 'appropriate information on performance' in the PRIIPs Regulation.

The PRIIPs Regulation obligates PRIIPs manufacturers to include performance scenarios in the KID. The methodology for calculating these scenarios is set out in the PRIIPs RTS, and has been criticised for producing misleading performance scenarios across a wide range of products. This is believed to be due, at least in part, to the prescribed methodology in the PRIIPs RTS relying on past performance to project future performance in a way that generates procyclicality.

HM Treasury proposes an amendment to replace the term 'performance scenario' with 'appropriate information on performance' in the PRIIPs Regulation. The FCA will then be able to amend the RTS to clarify what information on performance should be provided in the KID.

3. An amendment enabling HM Treasury to further extend the exemption currently in place for Undertakings for the Collective Investment in Transferable Securities (UCITS) funds.

UCITS funds are exempted from the requirements of the PRIIPs Regulation until 31 December 2021. Until that date, instead of a KID, UCITS funds must produce a Key Investor Information Document (KIID) as per the requirements of the UCITS Directive.

The government currently considers that the existing rules for UCITS disclosure are satisfactory. HM Treasury proposes an amendment which delegates a power to the Treasury to further extend the exemption for UCITS for up to a maximum of five years. This will enable HMT to consider the most appropriate timing for the transition of UCITS funds into any domestic successor that may result from the planned review of the UK framework for investment product disclosure, and bring forward a Statutory Instrument to amend the exemption date in the PRIIPs Regulation as necessary.

Timings of introduction

HM Treasury intends to legislate for these amendments when parliamentary time allows.

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