

To:

Commissioner Lord Jonathan Hill
European Commission

Mr. Sven Gentner
European Commission
Head of Unit
GD FISMA, Directorate Financial Markets, Unit C4

Per mail only

Brussels, 08 March 2016

Implementation of the EU PRIIPs regulation
Postponement

Commissioner Hill, your Lordship, dear Mr. Gentner,

In our capacity as presidents and chair(wo)men of structured products issuer associations in Europe and on behalf of our members we would like to make you aware by way of this letter of our fundamental concerns with regard to the timeline envisaged for the implementation of the EU Regulation on “Packaged Retail Investment and Insurance Products” (PRIIPs Regulation).

Whilst we appreciate and share the underlying notion of the PRIIPs Regulation to harmonize investor information by introducing a standard shorthand information document we also think that any such successful introduction of the Regulation requires legal certainty and, based thereon, a solid process planning.

Currently however, we do not think that within the available timeline such legal certainty and a secure process planning can realistically still be achieved. This is mainly down to three reasons:

- 1. The uncertainty about the final content of the Regulatory Technical Standards for PRIIPs,**
- 2. The fact that fundamental topics necessary to the implementation of KIDs generation tools have not been dealt with in the draft RTS of the Consultation Paper,**
- 3. The impact of two strongly interconnected topics between PRIIPs and the future MiFID II provisions.**



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1. Whilst the PRIIPs regulation is foreseen to enter into force on 30 December 2016, the Regulatory Technical Standards (RTS) that will set out the relevant operational details for the implementation are yet to be published. As for the timeline of their establishment it needs to be borne in mind that :
 - RTS will have to embed the results of the last market consultation which ended only January 2016, for which to our knowledge, respondents had divergent positions on the many proposals made in the Consultation Paper,
 - RTS will need to be supported also by an impact assessment which, as we understand, is only now being carried out by the European Supervisory Authorities.
 - Despite the submission of RTS to the EU Commission being envisaged for end of March 2016, their ultimate finalisation may take more time considering amendments brought forward by the EU Commission, Parliament and Council.

Without being in a position yet to judge the content of the RTS drafted under above pressures, we wish to stress already that **asking banks to rely**, for their implementation processes, on the draft RTS version submitted to the Commission, **without awaiting its finalisation, poses a specific danger, as any future changes to a once defined processes are later particularly difficult to implement.**

2. Above situation is made worse by the fact that many issues with practical and/or legal relevance are **not dealt with by the future RTS in their last known draft version** and remain hence unclear while they are of crucial importance to the industry. To these belong:
 - PRIIPs product scope and manufacturer definition,
 - Grandfathering (application of PRIIPs to existing products),
 - Use of KIDs in other countries than the home country of the manufacturer, including a clarification of national regulators' mandate, if any, concerning KIDs,
 - KID update obligation,
 - Guidance on content (in particular the "What is this product?" section),
 - Extent of the "How can I complain?" section, and,
 - Use of generic KIDs for specific products (such as listed securities and OTC products) and in situations where the preparation of a detailed KID is not practical
 - The *ex post* communication of the KID.

Details on above points can be taken from the letter sent by our European umbrella association EUSIPA to the Commission on 22 February, available under the following [link](#).

3. Furthermore, certain content items, such as the required cost disclosure and information on the products' target market, will have to be implemented in a manner consistent with requirements under the MiFID II Directive.

A highly relevant item for the distribution of financial products to retail investors will be the obligation for the issuer to define the target market of every retail product. MiFID II and PRIIPs are on this point however reversely dependant. The MiFID II target market will very likely consider (also) the PRIIPs Synthetic Risk Indicator value, while the PRIIPs KID will need to indicate details of the MiFID II target market.

Ignoring this interdependency runs the risk that, upon the enforcement of MiFID II, products will have been sold (with a PRIIPs KID) outside the scope of their target market. This does not only create a liability risk for issuers and distributors but will misguide retail investors.

Overall, it should be understood that **the need for significant IT development after the RTS are finalised and** above problems resolved, especially in areas where products are manufactured continuously, in high volumes, and traded across borders, **aggravates the timing pressures.** The necessary **IT requirements make the currently available timeline unrealistic,** particularly in the product areas where the impact of regulation might be the highest.

Generally it should be noted, that especially for banking institutions operating on a cross-border basis, as most of our members do, the **PRIIPs implementation process requires a huge project management and IT effort.** This is mainly due to the need for a coherent set-up and management of the KID-related information flow at the numerous interfaces between an issuing entity and its distribution channels, which are manifold and often vary from market to market.

The issues set out above insofar lead to a situation in which our members cannot properly prepare for the necessary implementation in another way than by working with assumptions that later may need to be revised because of changing rules.

The EU Commission's announcement of a one-year delay to the application of MiFID II stated reasons such as complexity, to need to avoid legal uncertainty and market disruption as the key reasons as to why a delay was deemed necessary.

Taking the above considerations into account, the signatories are convinced that it is of **great benefit to retail investors and all market participants** to postpone the application date of the PRIIPs implementation **for the very same reasons.**

Given the importance of the RTS we would hence suggest that the PRIIPs Regulation enters into force 9 to 12 months after the day the PRIIPs Regulatory Technical Standards have been finalised and all of the other detailed requirements, such as those related to items raised under 2) are made publicly available.

We thank you in advance for your kind consideration and are available for further information.

Yours sincerely,



Reinhard Bellet
President, EUSIPA



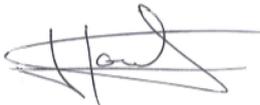
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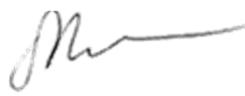
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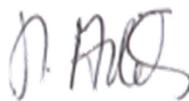
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