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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	10 November 2016
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
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Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 1286/2014 of the European Parliament and of the Council on key information documents for packaged retail and insurance-based investment products as regards the date of its application

Delegations will find attached document COM(2016) 709 final.

Encl.: COM(2016) 709 final



Brussels, 9.11.2016
COM(2016) 709 final

2016/0355 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**amending Regulation (EU) No 1286/2014 of the European Parliament and of the Council
on key information documents for packaged retail and insurance-based investment
products as regards the date of its application**

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

Reasons for the proposal

Regulation (EU) No 1286/2014 was adopted on 26 of November 2014 with the objective of increasing the protection of retail investors investing in packaged retail and insurance-based investment products (PRIIPs). It also aims to restore consumer trust in the financial services industry after the financial crisis.

In order to fulfil these objectives, Regulation (EU) No 1286/2014 requires that PRIIPs manufacturers comply with a uniform set of product disclosure requirements and that retail investors receive the key information document (KID) on the offered PRIIPs. The disclosed information should enable the retail investors to better understand the economic nature and risks of a particular product and to allow for comparison between different offers. Moreover, greater transparency and harmonization will also benefit the internal market in financial services by creating a level playing field among different products and distribution channels.

Regulation (EU) No 1286/2014 sets the form and content of the KID. In order to further standardise various features of the KID and to take account of important differences among types of PRIIPs, the European Supervisory Authorities ('ESAs': European Insurance and Occupational Pensions Authority, European Banking Authority and European Securities and Markets Authority) are tasked with the preparation of regulatory technical standards (RTS) specifying the presentation and the content of the KID, the standardised format of the KID, the methodology underpinning the presentation of risk and reward and the calculation of costs, as well as the conditions and the minimum frequency for reviewing the information contained in the KID and the conditions on fulfilling the requirement to provide the KID to retail investors.

On 6 April 2016, the ESAs jointly submitted the draft RTS on the KID for PRIIPs to the Commission. The draft RTS were endorsed by the Commission on 30 June 2016 by adopting the Delegated Regulation on KID¹.

During the scrutiny period, the Council raised no objections to the Commission Delegated Regulation. However, on 14 September 2016, the European Parliament rejected it². The European Parliament called on the Commission to review the provisions relating to multi-option PRIIPs, performance scenarios and comprehension alert. Moreover, the European Parliament and a large majority of Member States asked the Commission to defer the date of

¹ C(2016) 3999 final.

² European Parliament Resolution of 14 September 2016 on the Commission delegated regulation of 30 June 2016 supplementing Regulation (EU) No 1286/2014 of the European Parliament and of the Council on key information documents for packaged retail and insurance-based investment products (PRIIPs) by laying down regulatory technical standards with regard to the presentation, content, review and revision of key information documents and the conditions for fulfilling the requirement to provide such documents (C(2016)03999 – 2016/2816(DEA)).

application of Regulation (EU) No 1286/2014, arguing that the absence of the technical standards would hinder the smooth application of that Regulation.

Regulation (EU) No 1286/2014 is directly applicable as of 31 December 2016 and it does not link the production of a KID to the adoption of the delegated act. While the provisions of the Regulation could be applied by PRIIPs manufacturers and enforced by competent authorities without the adoption of the Delegated Regulation, it is desirable to provide as much clarity as possible on the technical standards specifying the content of certain rules.

Given the exceptional circumstances that have led to delays in the adoption of the Delegated Regulation, the Commission proposes to defer the date of application of Regulation (EU) No 1286/2014 by 12 months in order to reduce legal uncertainty and give more time to PRIIPs manufacturers to prepare for the application of the new rules.

Length of the deferral

A deferral of twelve months should provide sufficient time for competent authorities and PRIIPs manufacturers to be able to comply with those new rules.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

Legal basis

This Proposal is based on Article 114 of the TFEU as is Regulation (EU) No 1286/2014, which this proposal seeks to amend.

Subsidiarity (for non-exclusive competence)

According to the principle of subsidiarity, Union action may only be taken if the envisaged aims cannot be achieved by Member States alone. Union intervention is needed to remove barriers to an internal market in financial services and products introducing a uniform approach to the disclosures relating to PRIIPs. In this regard, the legislation that is being amended is adopted in full compliance with the principle of subsidiarity and any amendment thereto must be made through a Commission proposal.

Proportionality

This Union action is necessary to achieve the objective of the effective application of the PRIIPs rules by the competent authorities and the PRIIPs manufacturers. This proposal will therefore ensure that the objectives pursued by Regulation (EU) No 1286/2014 are achieved across the internal market ensuring a high level of market transparency and retail investor protection.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

This proposal is not accompanied by a separate impact assessment, as an impact assessment for Regulation (EU) No 1286/2014 has been already produced. This proposal does not alter substance of the Regulation and does not create new obligations for market participants covered by its scope. It only concerns an extension of the date of application of Regulation (EU) No 1286/2014 by 12 months in order to ensure legal certainty for the industry also allowing it and the competent authorities to prepare for the new rules.

4. BUDGETARY IMPLICATIONS

The proposal does not have a budgetary impact for the European Commission.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EU) No 1286/2014 of the European Parliament and of the Council on key information documents for packaged retail and insurance-based investment products as regards the date of its application

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Central Bank,

Having regard to the opinion of the European Economic and Social Committee,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Regulation (EU) No 1286/2014 of the European Parliament and of the Council³ introduced a series of measures aimed at enhancing investor protection and rebuilding consumer trust in the financial services industry by increasing transparency in the retail investment market. It requires manufacturers of packaged retail and insurance-based investment products (PRIIPs) to produce a Key Information Document (KID).
- (2) Regulation (EU) No 1286/2014 empowers the European Supervisory Authorities to prepare regulatory technical standards specifying the elements of the KID.
- (3) On 30 June 2016, the Commission adopted the Delegated Regulation⁴ which specifies the presentation and the content of the KID, the standardised format of the KID, the methodology underpinning the presentation of risk and reward and the calculation of costs, as well as the conditions and the minimum frequency for reviewing the

³ 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) (OJ L 352, 9.12.2014, p. 1).

⁴ C(2016) 3999 final.

information contained in the KID and the conditions on fulfilling the requirement to provide the KID to retail investors.

- (4) The European Parliament objected to the Delegated Regulation adopted by the Commission on 30 June 2016 and called, together with a large majority of Member States, for a deferral of the date of application of Regulation (EU) No 1286/2014.
- (5) A deferral of twelve months will give additional time for those concerned to adhere to the new requirements. In the light of these exceptional circumstances, it is appropriate and justified that Regulation (EU) No 1286/2014 is amended accordingly.
- (6) Given the very short period of time left before the application of the provisions laid down in Regulation (EU) No 1286/2014, this Regulation should enter into force without delay.
- (7) Consequently, it is also justified to apply in this case the exception for urgent cases provided for in Article 4 of Protocol (No 1) on the role of national Parliaments in the European Union.

HAVE ADOPTED THIS REGULATION:

Article 1

In Regulation (EU) No 1286/2014, the second paragraph of Article 34 is replaced by the following:

'It shall apply from 1 January 2018'.

Article 2

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament
The President
Martin Schulz

For the Council
The President