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COVER NOTE

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	18 July 2019
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	C(2019) 4912 final
Subject:	COMMISSION DELEGATED REGULATION (EU) .../... of 3.7.2019 amending Delegated Regulation (EU) 2017/653 to align the transitional arrangement for PRIIP manufacturers offering units of funds referred to in Article 32 of Regulation (EU) No 1286/2014 of the European Parliament and of the Council as underlying investment options with the prolonged exemption period under that Article

Delegations will find attached document C(2019) 4912 final.

Encl.: C(2019) 4912 final



Brussels, 3.7.2019
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COMMISSION DELEGATED REGULATION (EU) .../...

of 3.7.2019

amending Delegated Regulation (EU) 2017/653 to align the transitional arrangement for PRIIP manufacturers offering units of funds referred to in Article 32 of Regulation (EU) No 1286/2014 of the European Parliament and of the Council as underlying investment options with the prolonged exemption period under that Article

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Article 17(1) of Regulation (EU) 2019/... on facilitating the cross-border distribution of collective investment undertakings and amending Regulations (EU) No 345/2013, (EU) No 346/2013 and (EU) No 1286/2014¹ extends the transitional arrangements for companies and persons in Article 32 of Regulation (EU) No 1286/2014² in relation to certain investment funds by two years, to 31 December 2021. Consequently, those companies and persons will apply that Regulation in respect of those funds as of 1 January 2022.

This Delegated Regulation lays down a transitional arrangement under Delegated Regulation (EU) 2017/653³ that is consistent with the extended transitional arrangement in Regulation (EU) No 1286/2014. It allows manufacturers of packaged retail and insurance-based investment products (PRIIPs) that offer investment funds as the only underlying investment options, or alongside other investment options, to continue using, for the purposes of drawing PRIIPs key information documents, key investor information documents drawn up in accordance with Articles 78 to 81 of Directive 2009/65/EC⁴ in respect of such funds.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

This Delegated Regulation is not accompanied by a separate impact assessment, as an impact assessment has already been produced for regulatory technical standards laid down in Delegated Regulation (EU) 2017/653. This Delegated Regulation neither alters the substance of that Delegated Regulation nor creates new obligations for manufacturers of PRIIPs or persons advising on or selling PRIIPs, including those referred to in Article 32 of Regulation (EU) No 1286/2014. It simply aligns the application deadline in the third paragraph of Article 18 of Delegated Regulation (EU) 2017/653 with the end of the transitional exemption laid down in Article 32 of Regulation (EU) No 1286/2014.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

This Delegated Regulation amends the regulatory technical standards laid down in Delegated Regulation (EU) 2017/653.

Article 1 amends the third paragraph of Article 18 of that Delegated Regulation, aligning the application deadline laid down therein with the end of the transitional exemption laid down in Article 32 of Regulation (EU) No 1286/2014.

¹ Regulation (EU) 2019/... of the European Parliament and of the Council of ... June 2019 on facilitating the cross-border distribution of collective investment undertakings and amending Regulations (EU) No 345/2013, (EU) No 346/2013 and (EU) No 1286/2014 (OJ L ...) [OJ: please insert the number, date and OJ reference].

² 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).

³ Commission Delegated Regulation (EU) 2017/653 of 8 March 2017 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 (OJ L 100, 12.4.2017, p. 1).

⁴ Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (recast) (OJ L 302, 17.11.2009, p. 32).

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amending Delegated Regulation (EU) 2017/653 to align the transitional arrangement for PRIIP manufacturers offering units of funds referred to in Article 32 of Regulation (EU) No 1286/2014 of the European Parliament and of the Council as underlying investment options with the prolonged exemption period under that Article

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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)⁵, and in particular Article 8(5) thereof,

Whereas:

- (1) Pursuant to Article 32(1) of Regulation (EU) No 1286/2014, management companies as defined in Article 2(1)(b) of Directive 2009/65/EC of the European Parliament and of the Council⁶, investment companies as referred to in Article 27 thereof and persons advising on, or selling, units of UCITS as referred to in Article 1(2) thereof are exempt from the obligations under that Regulation until 31 December 2019. When a Member State applies rules on the format and content of the key information document, as laid down in Articles 78 to 81 of Directive 2009/65/EC, to non-UCITS funds offered to retail investors, the exemption laid down in Article 32(1) of Regulation (EU) No 1286/2014 applies to management companies, investment companies and persons advising on, or selling, units of such funds to retail investors. To provide those funds with a consistent transitional legal regime, the third paragraph of Article 18 of Commission Delegated Regulation (EU) 2017/653⁷ allows manufacturers of packaged retail and insurance-based investment products ('PRIIP manufacturers') to continue using such documents drawn up in accordance with those Articles until 31 December 2019, where at least one of the underlying investment options is a UCITS or non-UCITS fund.
- (2) Regulation (EU) No 1286/2014 has been amended to extend the transitional arrangements referred to in Article 32 thereof until 31 December 2021⁸. In order to

⁵ OJ L 352, 9.12.2014, p. 1.

⁶ Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (recast) (OJ L 302, 17.11.2009, p. 32).

⁷ Commission Delegated Regulation (EU) 2017/653 of 8 March 2017 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 (OJ L 100, 12.4.2017, p. 1).

⁸ Regulation (EU) 2019/... of the European Parliament and of the Council of ... June 2019 on facilitating the cross-border distribution of collective investment undertakings and amending Regulations (EU) No

enable PRIIP manufacturers to determine their obligations with certainty, the date set out in the third paragraph of Article 18 of Delegated Regulation (EU) 2017/653 should be changed accordingly.

- (3) Delegated Regulation (EU) 2017/653 should therefore be amended accordingly.
- (4) This Regulation is based on draft regulatory technical standards submitted to the Commission by the European Banking Authority, the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority (the ‘European Supervisory Authorities’).
- (5) The European Supervisory Authorities have not conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, nor analysed potential related costs and benefits, as an impact assessment has already been produced for regulatory technical standards laid down in Delegated Regulation (EU) 2017/653. This Regulation neither alters the substance of Delegated Regulation (EU) 2017/653 nor creates new obligations for PRIIPs manufacturers or persons advising on or selling PRIIPs, including those referred to in Article 32 of Regulation (EU) No 1286/2014. The European Supervisory Authorities have requested the opinion of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council⁹, the Insurance and Reinsurance Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1094/2010 of the European Parliament and of the Council¹⁰ and the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council¹¹,

HAS ADOPTED THIS REGULATION:

Article 1

In Article 18 of Delegated Regulation (EU) 2017/653, the third paragraph is replaced by the following:

‘Article 14(2) shall apply until 31 December 2021.’

Article 2

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

345/2013, (EU) No 346/2013 and (EU) No 1286/2014 (OJ L) [OJ: please insert the number, date and OJ reference].

⁹ 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), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

¹⁰ 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), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (OJ L 331, 15.12.2010, p. 48).

¹¹ 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), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

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

Done at Brussels, 3.7.2019

*For the Commission
The President
Jean-Claude JUNCKER*