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From: Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director

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To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

No. Cion doc.: C(2021) 6325 final

Subject: COMMISSION DELEGATED REGULATION (EU) .../... of 7.9.2021 amending the regulatory technical standards laid down in Commission Delegated Regulation (EU) 2017/653 as regards the underpinning methodology and presentation of performance scenarios, the presentation of costs and the methodology for the calculation of summary cost indicators, the presentation and content of information on past performance and the presentation of costs by packaged retail and insurance-based investment products (PRIIPs) offering a range of options for investment and alignment of 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 transitional arrangement laid down in that Article

Delegations will find attached document C(2021) 6325 final.

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Brussels, 7.9.2021
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COMMISSION DELEGATED REGULATION (EU) .../...
of 7.9.2021

amending the regulatory technical standards laid down in Commission Delegated Regulation (EU) 2017/653 as regards the underpinning methodology and presentation of performance scenarios, the presentation of costs and the methodology for the calculation of summary cost indicators, the presentation and content of information on past performance and the presentation of costs by packaged retail and insurance-based investment products (PRIIPs) offering a range of options for investment and alignment of 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 transitional arrangement laid down in that Article

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Regulation (EU) No 1286/2014¹ requires that manufacturers of ‘Packaged Retail and Insurance-based Investment Products’ (PRIIPs) draw up ‘Key Information Documents’ (KIDs) for these products before making them available to retail investors, and those selling or advising on these products to provide the KIDs to retail investors in good time before they buy those products.

Regulation (EU) No 1286/2014 empowers the European Banking Authority established by Regulation (EU) No 1093/2010², the European Insurance and Occupational Pensions Authority established by Regulation (EU) No 1094/2010³ and the European Securities and Markets Authority established by Regulation (EU) No 1095/2010⁴ (collectively ESAs) with jointly developing regulatory technical standards.

The regulatory technical standards developed by the European supervisory authorities and laid down in Commission Delegated Regulation (EU) 2017/653⁵ should specify:

- the presentation and the content of the KID, including methodologies for the calculation and presentation of risks, rewards and costs within the KID (Article 8(5) of Regulation (EU) No 1286/2014),
- the review, revision and publication of the KID (Article 10(2) of Regulation (EU) No 1286/2014); and
- the conditions for fulfilling the requirement to provide the KID in good time to the retail investor (Article 13(5) of Regulation (EU) No 1286/2014).

This delegated regulation amends Delegated Regulation (EU) 2017/653 on regulatory technical standards by setting out, in particular:

- new methodologies underpinning the calculation of appropriate performance scenarios and a revised presentation of these scenarios, to ensure that retail investors do not have inappropriate expectations about the potential return on investment they may receive;

¹ 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).

² 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).

³ 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).

⁴ 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).

⁵ 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, 12.04.2017, p. 1).

- revised summary cost indicators and changes to the content and presentation of information on the costs of PRIIPs to help retail investors better understand the different types of cost structures, as well as to facilitate the use of this information by persons selling or advising about PRIIPs;
- a modified methodology underpinning the calculation of transaction costs to address practical challenges that have arisen when applying the existing rules and issues regarding the application to certain types of underlying investments;
- modified rules for PRIIPs that offer a range of options for investment to ensure more clarity of the information on their cost implications.

This delegated regulation also lays down regulatory technical standards for information on past performance, which is to be provided by certain types of undertakings for collective investment in transferable securities (UCITS), retail alternative investment funds (AIFs), and insurance-based investment products.

This delegated regulation is accompanied by amendments to Directive 2009/65/EC⁶ to avoid, from 1 July 2022, that investors receive two pre-contractual disclosure documents, i.e. the PRIIPs KIDs and the ‘key investor information’ required by that Directive. This will be achieved by clarifying that if UCITS already draw up, provide, revise and translate KIDs, the requirements on ‘key investor information’ as set out in Articles 78 to 82, and Article 94 of that Directive are consequently satisfied.

This delegated regulation is also accompanied by amendments to Regulation (EU) No 1286/2014⁷ to extend the transitional arrangement for certain investment funds laid down in Article 32 of that regulation by six months, i.e. to 30 June 2022. To that end, this delegated regulation lays down a transitional arrangement under Delegated Regulation (EU) 2017/653 that is consistent with the extended transitional arrangement in Regulation (EU) No 1286/2014. It allows manufacturers of PRIIPs that offer investment funds as the only underlying investment options, or alongside other investment options, to continue using, for the purposes of drawing up PRIIPs KID, UCITS ‘key investor information’ documents drawn up in accordance with Articles 78 to 81 of Directive 2009/65/EC in respect of such funds.

This will ensure continuity in the implementation of Regulation (EU) No 1286/2014 until the amendment to Delegated Regulation (EU) 2017/653 is adopted, by synchronising all the application dates.

This delegated regulation applies from 1 July 2022.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

On 16 October 2019 the European supervisory authorities launched a public consultation on potential amendments to Delegated Regulation (EU) 2017/653, which by its closure on 13 January 2020, had received 100 responses in total.

The European supervisory authorities used the findings from the original consumer testing to inform their opinion on most effective approaches for a retail investors. The consumer testing study that was carried out as part of the effort to develop the existing content of the KID in

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) (OJ L 302, 17.11.2009, p. 32).

⁷ 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).

2014 and 2015⁸ involved many different approaches to presenting information on risk, potential rewards and costs. These included *inter alia* the use of graphs, tables and various types of visual techniques. Given the range of options tested and its depth, the study remains relevant when considering how the KID could be changed.

However, it was considered that additional consumer testing could increase insights into the effectiveness of the current KID and the value of any potential changes. The Commission therefore in cooperation with the European supervisory authorities conducted a targeted consumer testing study that analysed different methods of presenting performance information. The results of the testing were published on 27 February 2020⁹. They helped inform decisions of the European supervisory authorities on revisions to the presentation of this information.

The European supervisory authorities requested the advice of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010, the Insurance and Reinsurance Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1094/2010, and the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010. They also gathered feedback on costs in particular a Roundtable with consumer experts held in December 2019.

The European supervisory authorities prepared a cost - benefit analysis to accompany the draft regulatory technical standards.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

On 3 February 2021, the European supervisory authorities submitted draft regulatory technical standards to the Commission, combining regulatory technical standards developed under Articles 8(5) and 10(2) of Regulation (EU) No 1286/2014. This Delegated Regulation amends the RTS laid down in Delegated Regulation (EU) 2017/653.

Article 1(1) includes in Article 1 of the delegated regulation on ‘*General information*’ section of the KID additional information requirements, namely where a PRIIP manufacturer forms part of a group, specification of that group, and by UCITS or AIF, their compartments or share classes, and management companies, by including certain adapted rules laid down in Commission Regulation (EU) No 583/2010¹⁰.

Article 1(2) inserts in the ‘*What is this product*’ section of the KID in Article 2 of the delegated regulation information requirements as regards essential features of UCITS or AIFs, by including certain adapted rules laid down in Commission Regulation (EU) No 583/2010.

Article 1(3) adds in Article 5 of the delegated regulation on ‘*What are the costs?*’ section of the KID a warning that additional costs may be charged by the persons advising on, or selling, the PRIIP and changes the requirements for ‘the Composition of costs’ table.

Article 1(4) inserts a new paragraph 3 in Article 8 of the delegated regulation on the ‘*Other relevant information*’ section of the KID. It lays down the obligation on certain UCITS, certain AIFs and certain insurance-based investment products, as defined in point 1 of Annex

⁸ Consumer testing study of the possible new format and content of for retail disclosures of packaged retail and insurance-based investment products, published on 10 November 2015.

⁹ Consumer testing services - Retail investors’ preferred option regarding performance scenarios and past performance information within the Key Information Document under the PRIIPs framework

¹⁰ Commission Regulation (EU) No 583/2010 of 1 July 2010 implementing Directive 2009/65/EC of the European Parliament and of the Council as regards key investor information and conditions to be met when providing key investor information or the prospectus in a durable medium other than paper or by means of a website (OJ L 176, 10.7.2010, p. 1).

VIII to the delegated regulation, to include a link to the website, or a reference to a document, on the information about past performance published in accordance with that Annex VIII.

Article 1(5) changes the title of Chapter II of the delegated regulation to ‘Specific provisions on the KID by PRIIPs offering a range of options for investment’.

Article 1(6) amends Article 10 of the delegated regulation in respect of PRIIPs offering a range of options for investment which cannot provide information regarding those underlying investment options within a single, concise, stand-alone KID to clarify the nature of the key information document to be provided.

Article 1(7) and (8) delete provisions in Articles 11 and 12 of the delegated regulation in respect of an indication where the specific information on each underlying investment option is located; amended Article 10 maintains that requirement. In addition, Article 1(8) deletes paragraph 2 of Article 12 of the delegated regulation due to the end of the temporal exemption for UCITS and relevant retail AIFs laid down in Article 32 of Regulation (EU) No 1286/2014.

Article 1(9) replaces Article 13 of the delegated regulation on ‘*What are the costs?*’ section in the generic KID. The new Article 13 covers both situations where the costs of the PRIIP other than the costs of the underlying investment options can and cannot be provided in a single figure. In the case of the former, it also provides that these costs are presented separately from the costs of the underlying investment options.

Article 1(9) also replaces Article 14 of the delegated regulation on ‘*Specific information on each underlying investment option*’. The new Article 14 requires PRIIP manufacturers to clarify whether the specific information includes all the costs of the PRIIP and, where relevant, is consistent with the requirement laid down in Article 8(3) of the delegated regulation on information on past performance. The specific information supplements the generic KID. By replacing Article 13 and Article 14 of the delegated regulation, Article 1(9) and Article 1(10) delete provisions addressing situations where a PRIIPs offers UCITS and relevant retail AIFs as options for investment, due to the end of the temporary exemption for UCITS and relevant retail AIFs laid down in Article 32 of Regulation (EU) No 1286/2014.

Article 1(10) inserts a new Chapter IIa into the delegated regulation setting out specific KID requirements for certain UCITS and AIFs. These cover investment compartments, share classes, fund of funds, master-feeder structures and structured funds. Chapter IIa includes certain adapted rules laid down in Commission Regulation (EU) No 583/2010.

Article 1(11) adds in Article 15(2) of the delegated regulation a new criterion for reviewing the KID if the performance scenarios are based on representative benchmarks or proxies.

Article 1(12) inserts a new Chapter IVa containing a single Article 17a on the use of cross-references to other sources of information.

Article 1(13) aligns the application deadline laid down in the third paragraph of Article 18 with the end of the temporary exemption laid down in Article 32 of Regulation (EU) No 1286/2014.

Article 1(14) replaces Annex I to Delegated Regulation (EU) 2017/653 on ‘*Template of the Key Information Document*’ with the text in Annex I to this regulation. It, in particular, adds information on authorisation to the KID template, where applicable and a heading for the term or maturity of the PRIIP.

Article 1(15) lays down that provisions in Annex II to this Regulation amend Annex II on ‘*Methodology for the presentation of risk*’ to the delegated regulation. In particular, it clarifies the assignment of market risk measure classes and allows PRIIP manufacturers to increase the

summary risk indicator (SRI) number if they consider that the summary risk indicator does not adequately reflect the risks of the PRIIP.

Article 1(16) lays down that the text in Annex C to this Regulation amends Annex III on '*On presentation of SRI*' to the delegated regulation. It introduces new narratives underneath the format template presenting the summary risk indicator in the KID, adapts the conditions for the inclusion of warnings and also addresses those Category 1 PRIIPs that have no initial investment amount.

Article 1(17) replaces Annex IV to the delegated regulation on '*Performance scenarios*' with the text in Annex IV to this regulation. Annex IV sets a new methodology underpinning the calculation of performance scenarios for UCITS and AIFs, except for structured UCITS and structured AIFs and other Category 2 PRIIPs, such as unit-linked insurance-based investment products. Under the new methodology, unfavourable, moderate, and favourable performance scenarios show a range of future outcomes as an estimate from a distribution of past returns of the PRIIP or a relevant benchmark. The calculation considers different points within certain parameters, including the input data for at least ten years (or the recommended holding period plus 5 years in the case of PRIIPs with a recommended holding period of more than 5 years). The new methodology retains the methodology for calculations of stress scenarios under the delegated regulation as a relevant indicator of very adverse market events. As regards other PRIIPs, Annex IV adapts the methodology laid down in the delegated regulation by allowing PRIIP manufacturers to show more conservative results by using lower percentiles of the estimated distribution of future returns used to generate the scenarios, provided justified cases of a material risk that the scenarios might lead to inappropriate expectations arise.

Article 1(18) replaces Annex V to the delegated regulation on '*Methodology for the presentation of performance scenarios*' with the text in Annex V to this regulation. Annex V, among others, introduces adjusted templates for the presentation of performance scenarios for single and regular investment or premium PRIIPs as well as a new template for PRIIPs that may be called or cancelled automatically before the end of the recommended holding period if certain predefined conditions are met. Next to performance scenario disclosures at the half and complete recommended holding period, these templates retain the standardised one year holding period to provide a common point of comparison across PRIIPs with different recommended holding periods, as well as to demonstrate the impact of exiting the investment early.

Article 1(19) lays down that the text in Annex VI to this Regulation amends Annex VI to the delegated regulation on '*Methodology for the calculation of costs*'. Annex VI, *inter alia*, maintains the reduction in yield indicator as the underlying method to calculate the main summary total cost indicator with some adjustments to the return assumption used, it addresses potential negative transaction costs by adapting the arrival price methodology including for PRIIPs that do not generate enough transactions to eliminate market movement with enough statistical certainty.

Article 1(20) replaces Annex VII to the delegated regulation on '*Presentation of costs*' with the text in Annex VII to this regulation. Annex VII, among other things, sets out the structure of two separate tables, with a first table showing only aggregated figures in monetary and percentage terms, and the second one showing a breakdown per type of costs, requires new

description of reduction in yield, and specific cost breakdowns by PRIIPs falling in the scope of Directive 2014/65/EU¹¹ and by insurance-based investment products.

Article 1(21) lays down that the text in Annex VIII to this regulation inserts in the delegated regulation a new Annex VIII on '*Content and presentation of past performance information*'. Annex VIII specifies the methodology and rules for presenting disclosures of past performance. It also specifies for which types of PRIIPs such disclosures are mandatory. The new Annex VIII to the delegated regulation includes certain adapted rules laid down in Commission Regulation (EU) No 583/2010.

¹¹ Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349).

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amending the regulatory technical standards laid down in Commission Delegated Regulation (EU) 2017/653 as regards the underpinning methodology and presentation of performance scenarios, the presentation of costs and the methodology for the calculation of summary cost indicators, the presentation and content of information on past performance and the presentation of costs by packaged retail and insurance-based investment products (PRIIPs) offering a range of options for investment and alignment of 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 transitional arrangement laid down in 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)¹², and in particular Article 8(5) and Article 10(2) thereof,

Whereas:

- (1) Experience gained during the first years of application of Commission Delegated Regulation (EU) 2017/653¹³ has shown that certain elements of presentation and content of key information documents need to be revised. Such revision is necessary to ensure that retail investors continue to be provided with appropriate information across the range of different types of packaged retail and insurance-based investment products ('PRIIPs'), irrespective of the particular market circumstances, in particular when there has been a sustained period of positive market performance.
- (2) To provide retail investors with information that is understandable, not misleading, and relevant for different types of PRIIPs, performance scenarios shown in the key information documents should not provide an overly positive outlook for potential future returns. The performance of underlying investments and the performance of non-structured investment funds and other similar PRIIPs are directly linked. The underpinning methodology for the presentation of performance scenarios should therefore be adapted to avoid relying on a statistical method which produces performance scenarios that could amplify observed returns. The underpinning

¹² OJ L 352, 9.12.2014, p. 1.

¹³ 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).

methodology for the presentation of performance scenarios should also be adapted to ensure that those scenarios are based on a longer period of observed returns, capturing both periods of positive and negative growth, thus providing more stable performance scenarios over time and minimising pro-cyclical outcomes. The ability of the methodology for the presentation of performance scenarios to provide appropriate forward-looking estimates has been demonstrated through back-testing which compared the outcomes of that methodology with actual observed performance of PRIIPs.

- (3) To avoid that performance scenarios are considered as best estimate forecasts, it is necessary to impose more prominent warnings about those scenarios. The disclosure, in simple terms, of additional details on the assumptions on which those scenarios are based should also reduce the risk of inappropriate expectations on possible future returns.
- (4) Information on costs is important for retail investors when comparing different PRIIPs. To enable retail investors to better understand the different types of cost structures of different PRIIPs and the relevance of those structures to their individual circumstances, information in the key information documents on costs should include a description of the main cost elements. Furthermore, to facilitate advising on and selling PRIIPs, the indicators for individual cost elements should be aligned with information disclosed under sectoral Union legislation, in particular Directive 2014/65/EU of the European Parliament and of the Council¹⁴ and Directive (EU) 2016/97 of the European Parliament and of the Council¹⁵. At the same time, it is necessary to ensure comparability across all types of PRIIPs with regard to total costs. The meaning of summary cost indicators in key information documents should be clarified, so that retail investors are able to better understand such summary cost indicators.
- (5) To better take into account economic features of certain asset classes and those PRIIPs that do not generate enough transactions to eliminate market movements with enough statistical certainty, the revised methodology for the calculation of transaction costs should use a more differentiated and proportionate approach. That methodology should also eliminate the potential occurrence of negative transaction costs to avoid the risk of confusing retail investors.
- (6) For PRIIPs offering a range of options for investment, an adjusted presentation of information on costs should be laid down to improve the understanding by retail investors of the cost implications of those different investment options.
- (7) To allow retail investors to observe, understand and compare the occurrence of volatility in the returns of linear PRIIPs and linear underlying investment options as well as previous performance in given market circumstances, it is necessary to lay down certain requirements on the standardised content and presentation of past performance in Delegated Regulation (EU) 2017/653, by incorporating and adapting certain rules laid down in Commission Regulation (EU) No 583/2010¹⁶. The

¹⁴ Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349).

¹⁵ Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (OJ L 26, 2.2.2016, p. 19).

¹⁶ Commission Regulation (EU) No 583/2010 of 1 July 2010 implementing Directive 2009/65/EC of the European Parliament and of the Council as regards key investor information and conditions to be met

standardised content and presentation of past performance should complement the information provided by performance scenarios. The key information documents for those linear PRIIPs and linear underlying investment options should contain in the section titled ‘Other relevant information’ cross-references to separate documents or websites with past performance information.

- (8) Pursuant to Article 32(1) of Regulation (EU) No 1286/2014, management companies, investment companies and persons advising on, or selling, units of UCITS are exempt from the obligations under that Regulation until 31 December 2021. 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 of the European Parliament and of the Council¹⁷, 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, Article 14(2) of Delegated Regulation 2017/653 which, in accordance with Article 18 of that Delegated Regulation applies until 31 December 2021, allows manufacturers of packaged retail and insurance-based investment products (‘PRIIP manufacturers’) to continue using such documents drawn up in accordance with Articles 78 to 81 of Directive 2009/65/EC, where at least one of the underlying investment options is a UCITS or non-UCITS fund. The Commission proposal for a Regulation of the European Parliament and the Council¹⁸ amending Regulation (EU) No 1286/2014 proposes to extend the transitional arrangements referred to in Article 32 thereof until 30 June 2022. It is necessary to enable PRIIP manufacturers to continue using documents drawn up in accordance with Articles 78 to 81 of Directive 2009/65/EC for as long as those transitional arrangements are in place.
- (9) Delegated Regulation (EU) 2017/653 should therefore be amended accordingly.
- (10) This Regulation is based on the 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’).
- (11) The European Supervisory Authorities have conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits, and requested the advice of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council¹⁹, 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 Council²⁰, and

when providing key investor information or the prospectus in a durable medium other than paper or by means of a website (OJ L 176, 10.7.2010, p. 1).

¹⁷ 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).

¹⁸ COM(2021)397.

¹⁹ 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).

²⁰ 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).

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 Council²¹.

- (12) Given the fact that the regulatory technical standards are closely related and in order to ensure that the requirements introduced by them are fully consistent, it is appropriate to adopt a single legal act amending the regulatory technical standards laid down in Delegated Regulation (EU) 2017/653.
- (13) To give PRIIP manufacturers, and persons advising on, or selling, PRIIPs sufficient time to prepare for the obligation to draw up a KID in accordance with the new requirements this Regulation should apply from 1 July 2022,

HAS ADOPTED THIS REGULATION:

Article 1

Delegated Regulation (EU) 2017/653 is amended as follows:

- (1) Article 1 is amended as follows:
 - (a) in the first paragraph, the following points (f) to (i) are added:
 - “(f) where applicable, in cases where the PRIIP manufacturer forms part of a group of companies for legal, administrative or marketing purposes, the name of that group;
 - (g) where the PRIIP takes the form of an undertaking for collective investment in transferable securities (UCITS) or an alternative investment fund (AIF), the identification of the UCITS or AIF including the share class or investment compartment thereof, stated prominently;
 - (h) authorisation details, where applicable;
 - (i) where the PRIIP takes the form of a UCITS or AIF and in cases where a UCITS is managed by a management company as defined in Article 2(1), point (b), of Directive 2009/65/EC or where it is an investment company as referred to in Article 27 of that Directive (collectively ‘UCITS management company’) which is exercising in respect of that UCITS rights under Article 16 of that Directive, or in cases where an AIF is managed by an alternative investment fund manager (AIFM) which is exercising in respect of that AIF rights under Articles 31, 32 and 33 of Directive 2011/61/EU of the European Parliament and of the Council^{*}, an additional statement in respect of that fact shall be included.

^{*} Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (OJ L 174, 1.7.2011, p. 1).”;

- (b) the following paragraph is added:

“For the purposes of the first paragraph, point (g), in the case of an investment compartment or share class, the name of the UCITS or AIF shall follow the

²¹ 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).

compartment or share class name. Where a code number identifying the UCITS or AIF, investment compartment or share class exists, it shall form part of the identification of the UCITS or AIF.”;

(2) Article 2 is amended as follows:

(a) the following paragraphs 2a, 2b and 2c are inserted:

“2a. Where the PRIIP takes the form of a UCITS or an AIF, the information in the section entitled ‘What is this product?’ of the key information document shall cover those essential features of a UCITS or AIF about which a retail investor shall be informed, even where those features do not form part of the description of objectives and investment policy in the prospectus of a UCITS as referred to in Article 68 of Directive 2009/65/EC or the description of the investment strategy and objectives of the AIF referred to in Article 23(1), point (a), of Directive 2011/61/EU, including:

- (a) the main categories of eligible financial instruments that are the object of investment;
- (b) the possibility that the retail investor may redeem units of UCITS or AIF on demand, qualifying that statement with an indication as to the frequency of dealing in units, or where applicable a statement that there is no possibility to redeem units on demand;
- (c) whether the UCITS or AIF has a particular target in relation to any industrial, geographic or other market sectors or specific classes of assets;
- (d) whether the UCITS or AIF allows for discretionary choices in regards to the particular investments that are to be made, and whether this approach includes or implies a reference to a benchmark and if so, which one;
- (e) whether dividend income is distributed or reinvested.

For the purposes of the first subparagraph, point (d), where a reference to a benchmark is implied, the degree of freedom available in relation to that benchmark shall be indicated, and where the UCITS or AIF has an index tracking objective, this shall be stated.

2b. The information referred to in paragraph 2a shall include the following, where relevant:

- (a) where the UCITS or AIF invests in debt securities, an indication of whether those debt securities are issued by corporate bodies, governments or other entities, and, where applicable, any minimum rating requirements ;
- (b) where the UCITS or AIF is a structured investment fund, an explanation in simple terms of all elements necessary for a correct understanding of the pay-off and the factors that are expected to determine performance, including references, where necessary, to the details on the algorithm and its workings which appear in the prospectus of the UCITS or the description of the investment strategy and objectives of the AIF;

- (c) where the choice of assets is guided by specific criteria, an explanation of those criteria, such as ‘growth’, ‘value’ or ‘high dividends’;
- (d) where specific asset management techniques are used, which may include hedging, arbitrage or leverage, an explanation in simple terms of the factors that are expected to determine the performance of the UCITS or AIF.

2c. The information referred to in paragraphs 2a and 2b shall distinguish between the broad categories of investments as specified in paragraph 2a, points (a) and (c), and paragraph 2b, point (a), and the approach to those investments to be adopted by a UCITS management company or an AIFM as specified in paragraph 2a, point (d) and paragraph 2b, points (b), (c) and (d).

The section entitled ‘What is this product?’ of the key information document may contain other elements than those listed in paragraphs 2a and 2b, including the description of the UCITS or AIF’s investment strategy, where those elements are necessary to adequately describe the objectives and investment policy of the UCITS or AIF.”;

- (b) the following paragraphs 6 and 7 are added:

“6. Where the PRIIP takes the form of a UCITS or an AIF, the identification and explanation of risks referred to in Annexes II and III to this Regulation shall be consistent with the internal process for identifying, measuring, managing and monitoring risk adopted by the UCITS’ management company in accordance with Directive 2009/65/EC or by AIFMs in accordance with Directive 2011/61/EU. Where a management company manages more than one UCITS or where an AIFM manages more than one AIF, the risks shall be identified and explained in a consistent manner.

7. Where the PRIIP takes the form of a UCITS or an AIF, the section entitled ‘What is this product?’ of the key information document shall contain the following information for every Member State in which the UCITS or AIF is marketed:

- (a) the name of the depositary;
- (b) where and how to obtain further information about the UCITS or AIF, copies of the UCITS’ prospectus or copies of the description of the investment strategy and objectives of the AIF, the latest annual report and any subsequent half-yearly report of the UCITS as referred to in Article 68(1), points (b) and (c), of Directive 2009/65/EC, or the latest annual report of the AIF as referred to in Article 22 of Directive 2011/61/EU, stating in which language or languages those documents are available, and that they may be obtained free of charge;
- (c) where and how to obtain other practical information, including where to find the latest prices of units.”;

- (3) Article 5 is amended as follows:

- (a) in paragraph 2, the following subparagraph is added:

“A prominent warning shall be added, where applicable, regarding the additional costs that may be charged by persons advising on, or selling, the PRIIP.”;

(b) paragraph 3 is replaced by the following:

“3. In the ‘Composition of costs’ table in the section titled ‘What are the costs?’ of the key information document, PRIIP manufacturers shall specify summary indicators of the following types of costs:

- (a) any one-off costs, such as entry and exit costs;
- (b) any recurring costs, separating portfolio transaction costs and other recurring costs;
- (c) any incidental costs, such as performance fees or carried interest.”;

(c) paragraph 4 is replaced by the following:

“4. PRIIP manufacturers shall describe each of the different costs included in the ‘Composition of costs’ table in the section titled ‘What are the costs?’ of the key information document, in accordance with Annex VII, and shall specify where and how those costs may differ from the actual costs the retail investor may incur, and where and how such costs may depend on whether the retail investor does or does not exercise certain options.”;

(4) in Article 8, the following paragraph 3 is added:

“3. For UCITS as defined in point 1(a) of Annex VIII, AIFs as defined in point 1(b) of that Annex, or unit-linked insurance-based investment products as defined in point 1(c) of that Annex, the section titled “Other relevant information” of the key information document shall include:

- (a) a link to the website, or a reference to a document, where the information about past performance published by the PRIIP manufacturer in accordance with Annex VIII is made available;
- (b) the number of years for which past performance data is presented.

For PRIIPs referred to in Annex II, Part 1, point 5, that are open-ended funds, or other PRIIPs open to subscription, previous performance scenario calculations shall be published on a monthly basis and the section titled “Other relevant information” shall state where those calculations can be found.”;

(5) the title of Chapter II is replaced by the following:

“CHAPTER II

SPECIFIC PROVISIONS ON THE KEY INFORMATION DOCUMENTS BY PRIIPs OFFERING A RANGE OF OPTIONS FOR INVESTMENT”;

(6) in Article 10, points (a) and (b) are replaced by the following:

“(a) a key information document for each underlying investment option within the PRIIP, in accordance with Chapter I, including information about the PRIIP as a

whole, with each key information document reflecting the case that the retail investor invests in one investment option only;

(b) a generic key information document describing the PRIIP in accordance with Chapter I, unless otherwise specified in Articles 11 to 14, including a description of where the specific information on each underlying investment option can be found.”;

(7) in Article 11, point (c) is deleted;

(8) Article 12 is amended as follows:

(a) in paragraph 1, point (d) is deleted;

(b) paragraph 2 is deleted;

(9) Articles 13 and 14 are replaced by the following:

“Article 13

‘What are the costs?’ section in the generic key information document

In the section titled ‘What are the costs?’, by way of derogation from Article 5(1), point (b), PRIIP manufacturers shall specify the following:

(a) where the costs of the PRIIP other than the costs for the underlying investment option cannot be provided in a single figure, including where those costs vary depending on the underlying investment option selected:

(i) the range of costs for the PRIIP in the ‘Costs over time’ and ‘Composition of costs’ tables set out in Annex VII;

(ii) a statement indicating that the costs to the retail investor vary on the basis of the underlying investment options;

(b) where the costs of the PRIIP other than the costs for the underlying investment options can be provided in a single figure:

(i) those costs shown separately from the range of costs for the underlying investment options offered by the PRIIP in the ‘Costs over time’ and ‘Composition of costs’ tables set out in Annex VII;

(ii) a statement indicating that the total costs to the retail investor consist of a combination of the costs for the underlying investment options chosen and other costs of the PRIIP and vary on the basis of the underlying investment options.

Article 14

Specific information on each underlying investment option

The specific information on each underlying investment option, referred to in Article 10, point (b), shall be provided in a specific information document supplementing the generic key information document. PRIIP manufacturers shall include for each underlying investment option all of the following:

(a) a comprehension alert, where relevant;

(b) the investment objectives, the means for achieving them, and the intended target market as referred to in Article 2(2) and (3);

- (c) a summary risk indicator and narrative, and performance scenarios, as referred to in Article 3;
- (d) a presentation of the costs, in accordance with Article 5, including a statement on whether or not those costs include all of the costs of the PRIIP in the case that the retail investor invests in that specific investment option only;
- (e) for underlying investment options that are UCITS as defined in point 1(a) of Annex VIII, AIFs as defined in point 1(b) of that Annex, or unit-linked insurance-based investment products as defined in point 1(c) of that Annex, information about past performance as required by Article 8(3).

The information referred to in points (a) to (e) of this paragraph shall follow the structure of the relevant parts of the template laid down in Annex I.”;

- (10) the following Chapter IIa is inserted:

“CHAPTER IIa

SPECIFIC PROVISIONS ON THE KEY INFORMATION DOCUMENTS BY CERTAIN UCITS AND AIFs

Article 14a

Investment compartments of UCITS or AIFs

1. Where a UCITS or AIF consists of two or more investment compartments, a separate key information document shall be produced for each individual compartment.
2. Each key information document referred to in paragraph 1 shall contain, in the section entitled ‘What is this product?’, the following information:
 - (a) a statement that the key information document describes a compartment of a UCITS or AIF, and, where applicable, that the prospectus of the UCITS or the description of the investment strategy and objectives of the AIF and periodic reports are prepared for the entire UCITS or AIF named at the beginning of the key information document;
 - (b) whether or not the assets and liabilities of each compartment are segregated by law and how this might affect the investor;
 - (c) whether or not the retail investor has the right to exchange his investment in units in one compartment for units in another compartment, and if so, where to obtain information about how to exercise that right.
3. Where the UCITS management company or the AIFM sets a charge for the retail investor to exchange his investment in accordance with paragraph 2, point (c), and that charge differs from the standard charge for buying or selling units, that charge shall be stated separately in the section entitled ‘What are the costs?’ of the key information document.

Article 14b

Share classes of UCITS or AIFs

1. Where a UCITS or AIF consists of more than one class of units or shares, the key information document shall be prepared for each class of units or shares.

2. The key information document pertinent to two or more classes of the same UCITS or AIF may be combined into a single key information document, provided that the resulting document fully complies with all requirements on length, language and presentation of the key information document.
3. The UCITS management company or AIFM may select a class to represent one or more other classes of the UCITS or AIF, provided the choice is fair, clear and not misleading to potential retail investors in those other classes. In such cases, the section entitled ‘What are the risks and what could I get in return?’ of the key information document shall contain the explanation of material risk applicable to any of the other classes being represented. A key information document based on the representative class may be provided to retail investors in the other classes.
4. Different classes shall not be combined into a composite representative class as referred to in paragraph 3.
5. The UCITS management company or AIFM shall keep a record of which other classes are represented by the representative class referred to in paragraph 3 and the grounds justifying that choice.
6. Where applicable, the section entitled ‘What is this product?’ of the key information document shall be supplemented by an indication of which class has been selected as representative, using the term by which it is designated in the UCITS’ prospectus or in the description of the investment strategy and objectives of the AIF.
7. That section shall also indicate where retail investors can obtain information about the other classes of the UCITS or AIF that are marketed in their own Member State.

Article 14c

UCITS or AIFs as fund of funds

1. Where the UCITS invests a substantial proportion of its assets in other UCITS or other collective investment undertakings as referred to in Article 50(1), point (e), of Directive 2009/65/EC, the description of the objectives and investment policy of that UCITS in the key information document shall include a brief explanation of how the other collective undertakings are to be selected on an ongoing basis. Where a UCITS is a fund of hedge funds the key information document shall include information about the purchase of non-EU AIFs that are not under supervision.
2. Where the AIF invests a substantial proportion of its assets in other UCITS or AIFs, paragraphs 1 and 2 shall apply *mutatis mutandis*.

Article 14d

Feeder UCITS

1. For feeder UCITS, as defined in Article 58 of Directive 2009/65/EC, the key information document shall contain, in the section entitled ‘What is this product?’ the following information specific to the feeder UCITS:
 - (a) a statement that the master UCITS’ prospectus, key information document, and periodic reports and accounts are available to retail investors of the feeder UCITS upon request, how they may be obtained, and in which language(s);
 - (b) whether the items listed in point (a) of this paragraph are available in paper copies only or in other durable media, and whether any fee is payable for items

not subject to free delivery in accordance with Article 63(5) of Directive 2009/65/EC;

- (c) where the master UCITS is established in a different Member State to the feeder UCITS, and where this may affect the feeder UCITS's tax treatment, a statement to this effect;
 - (d) information about the proportion of the feeder UCITS' assets which is invested in the master UCITS;
 - (e) a description of the master UCITS' objectives and investment policy, supplemented, as appropriate, by either of the following:
 - (i) an indication that the feeder UCITS' investment returns will be very similar to those of the master UCITS; or
 - (ii) an explanation of how and why the investment returns of the feeder and master UCITS may differ.
2. Where the risk and reward profile of the feeder UCITS differs in any material respect from that of the master UCITS, that fact and the reason for it shall be explained in the section entitled 'What are the risks and what could I get in return?' of the key information document.
3. Any liquidity risk and the relationship between purchase and redemption arrangements for the master and feeder UCITS shall be explained in the section entitled 'What are the risks and what could I get in return?' of the key information document.

Article 14e

Structured UCITS or AIF

Structured investment funds are UCITS or AIFs which provide retail investors, at certain predetermined dates, with algorithm-based payoffs that are linked to the performance, or to the realisation of price changes or other conditions, of financial assets, indices or reference portfolios or UCITS or AIFs with similar features.”;

(11) in Article 15, paragraph 2, the following point (d) is added:

“(d) where the performance scenarios are based on appropriate benchmarks or proxies, the consistency of the benchmark or proxy with the objectives of the PRIIP.”;

(12) the following Chapter IVa is inserted:

“Chapter IVa

CROSS-REFERENCES

Article 17a

Use of cross-references to other sources of information

Without prejudice to Article 6 of Regulation (EU) No 1286/2014, cross-references to other sources of information, including the prospectus and annual or half-yearly reports, may be included in the key information document, provided that all information fundamental for the

retail investors' understanding of the essential elements of the investment is included in the key information document.

Cross-references shall be permitted to the website of the PRIIP or the PRIIP manufacturer, including a part of any such website containing the prospectus and the periodic reports.

Cross-references referred to in the first subparagraph shall direct the retail investor to the specific section of the relevant source of information. Several different cross-references may be used within the key information document but they shall be kept to a minimum.”;

- (13) in Article 18, the third paragraph is replaced by the following: “Article 14(2) shall apply until 30 June 2022.”;
- (14) Annex I is replaced by the text in Annex I to this Regulation;
- (15) Annex II is amended in accordance with Annex II to this Regulation;
- (16) Annex III is amended in accordance with Annex III to this Regulation;
- (17) Annex IV is replaced by the text in Annex IV to this Regulation;
- (18) Annex V is replaced by the text in Annex V to this Regulation;
- (19) Annex VI is amended in accordance with Annex VI to this Regulation;
- (20) Annex VII is replaced by the text in Annex VII to this Regulation;
- (21) the text set out in Annex VIII of this Regulation is added as Annex VIII.

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*.

It shall apply from 1 July 2022. However, Article 1, point 13 shall apply from 1 January 2022.

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

Done at Brussels, 7.9.2021

For the Commission
The President
Ursula VON DER LEYEN