

SENATE OF THE REPUBLIC

XVII LEGISLATURE

Doc. XVIII

No 175

RESOLUTION OF THE 6th STANDING COMMITTEE

(Finance and the Treasury)

(Rapporteur Gianluca ROSSI)

Approved at the sitting of 22 November 2016

ON THE

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 (COM (2016)709 FINAL)

under Article 144(1) and (6) of the Rules of Procedure

Notified to the President's Office on 2 December 2016

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The Committee, having examined the above proposal,

whereas it merely defers by one year (from 31 December 2016 to 1 January 2018) the date of application of 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 (the PRIIP Regulation), as requested by the European Parliament and 23 Member States, following the European Parliament's rejection of the draft Delegated Regulation of the European Commission, with the consequent legal uncertainty as to the application of certain provisions of the PRIIP Regulation;

recalling that, with the objective of increasing the protection of retail investors, the PRIIP Regulation lays down uniform rules on: (a) the format and content of the key information document (KID) which must be prepared by PRIIP manufacturers; (b) the obligations to prepare that document and provide it to retail investors in order to enable them to understand and compare the key features and risks of PRIIPs; (c) powers of monitoring the market for insurance-based investment products (IBIP) distributed or sold in the EU; (d) procedures for complaints, redress, cooperation and supervision; (e) administrative sanctions and other administrative measures;

recalling that this Committee, in its favourable opinion of 21 September 2016 on the scheme of Legislative Decree No 326 concerning rules to adapt national provisions to the PRIIP Regulation, noted *inter alia* the European Parliament's opposition and took the view that that did not prevent the entry into force of the Legislative Decree, the effects of which were subject to the date of application of the European Regulation;

whereas:

on 30 June 2016 the European Commission adopted the Delegated Regulation 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) 3999), as provided for in Article 30 of the PRIIP Regulation;

Article 30(5) of the PRIIP Regulation provides that the delegated regulation is to enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of three months of notification of that act;

on 14 September 2016 the European Parliament approved a resolution by which it expressed objections to the Delegated Regulation, within the meaning of Article 30 of the PRIIP Regulation, cited above, preventing its entry into force. In the resolution, the European Parliament asks, in addition, the European Commission to submit a new delegated act which takes account of such concerns and, as a result, to present a proposal to defer the date of entry into force of the PRIIP Regulation;

whereas the European Commission, on 15 November 2016, upon submitting the proposal for a regulation for scrutiny on the application of the principles of subsidiarity and proportionality, asks the national parliaments to confirm, if possible before 28 November 2016, that they do not intend to send a reasoned opinion, in light of the exceptional urgency of the legislative act submitted;

expresses a favourable position concerning the deferral of the date of application of Regulation No 1286/2014, cited above, to 1 January 2018, and points out both the correct legal basis and the observance of the principles of subsidiarity and proportionality, since the proposal is confined to attaining the objective of deferring the date of application of the regulation for a sufficient period of time to make it possible to enact a new delegated regulation on the key information document (KID), which takes account of the European Parliament's considerations, in order to allow the effective application of the PRIIP rules by the competent authorities and PRIIP manufacturers for the purpose of making the protection of savers more effective.

OPINION OF THE 14TH STANDING COMMITTEE

(EUROPEAN UNION POLICIES)

(Rapporteur: GUERRA)

22 November 2016

The Committee, having examined the above proposal,

whereas the proposal merely defers by one year (from 31 December 2016 to 1 January 2018) the date of application of 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 (the PRIIP Regulation), as requested by the European Parliament and 23 Member States, following the European Parliament's rejection of the draft Delegated Regulation of the European Commission, with the consequent legal uncertainty as to the application of certain provisions of the PRIIP Regulation;

recalling that the PRIIP Regulation, with the objective of increasing the protection of retail investors, lays down uniform rules on: (a) the format and content of the key information document (KID) which must be prepared by PRIIP manufacturers; (b) the obligations to prepare that document and provide it to retail investors in order to enable them to understand and compare the key features and risks of PRIIPs; (c) powers of monitoring the market for insurance-based investment products (IBIP) distributed or sold in the EU; (d) procedures for complaints, redress, cooperation and supervision; (e) administrative sanctions and other administrative measures;

whereas:

on 30 June 2016 the European Commission adopted the Delegated Regulation 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) 3999), as provided for in Article 30 of the PRIIP Regulation;

Article 30(5) of the PRIIP Regulation provides that the delegated regulation is to enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of three months of notification of that act;

on 14 September 2016 the European Parliament approved a resolution by which it expressed objection to the Delegated Regulation, within the meaning of Article 30 of the PRIIP Regulation, cited above, preventing its entry into force. In the resolution, the European Parliament asks, in addition, the European Commission to present a new delegated act which takes into account such concerns and, as a result, to present a proposal to defer the date of entry into

force of the PRIIP Regulation;

in particular, the European Parliament submits that ‘it would be misleading to investors to remove credit risk from the calculation of risk categorisation of insurance products’, that ‘the delegated act as adopted by the Commission contains flaws in the methodology for the calculation of future performance scenarios’ and that ‘the lack of detailed guidance in the delegated regulation on the ‘comprehension alert’ creates a serious risk of inconsistent implementation of this element in the key information document across the single market’. Therefore, ‘left unchanged, there is a risk that the rules set out in the delegated regulation go against the spirit and aim of the legislation, which is to provide clear, comparable, understandable and non-misleading information on PRIIPs to retail investors’;

recalling that this Committee, in the observations expressed on 21 September 2016 on the scheme of Legislative Decree No 326 concerning rules to adapt national provisions to the PRIIP Regulation, noted the European Parliament’s opposition and took the view that that did not prevent the entry into force of the Legislative Decree, the effects of which were subject to the date of application of the European Regulation;

whereas the European Commission, on 15 November 2016, upon submitting the proposal for a regulation for scrutiny on the application of the principles of subsidiarity and proportionality, asks the national parliaments to confirm, if possible before 28 November 2016, that they do not intend to send a reasoned opinion, in light of the exceptional urgency of the legislative act submitted;

comments favourably, within its area of responsibility, with the following observations:

the legal basis is Article 114 of the Treaty on the Functioning of the European Union (TFEU), on the approximation of the laws of Member States, which is the same basis as the PRIIP Regulation;

the principles of subsidiarity and proportionality have been observed, since the proposal is confined to attaining the objective of deferring the date of application of the regulation for a sufficient period of time to make it possible to enact a new delegated regulation on the key information document (KID), which takes account of the European Parliament’s considerations, in order to allow the effective application of the PRIIP rules by the competent authorities and PRIIP manufacturers.

