

**Request to the Joint Committee of the European Supervisory
Authorities for technical advice on possible delegated acts concerning
the Regulation on Key Information Documents for Packaged Retail and
Insurance-based Investment Products**

I. Introduction

The services of the European Commission (hereafter, the Commission) request the Joint Committee's advice on the contents of the delegated acts to be adopted pursuant to Article 8(4) of Regulation (EU) No 1286/2014 on key information documents (KID) for packaged retail and insurance-based investment products (PRIIPs).

The Article referred to above does not contain a specific deadline for the delivery of delegated acts. The Commission requests that the Joint Committee deliver its advice by 30 April 2017.

The Commission invites the Joint Committee to take account of the governance and supervisory requirements set out in sectoral legislation applicable to credit institutions, insurance undertakings, investment firms and alternative investment fund managers.

In accordance with the principles of Better Regulation the Commission must provide an impact assessment to accompany delegated acts. The Joint Committee is therefore requested, in addition to the advice on the content of the delegated acts, to justify its advice. This should include identification of the range of policy options available, details of any mapping exercise of sectoral legislation used to formulate those policy options and an assessment of the costs and benefits of each. The results of this assessment should be submitted at the same time as the advice.

In the interest of transparency, the Commission will publish this request for advice on the DG Financial Stability, Financial Services and Capital Markets Union website once it has been sent to the Joint Committee.

II. Request to the Joint Committee for technical advice on possible Delegated Acts concerning the Regulation on Key Information Documents for Packaged Retail and Insurance-based Investment Products.

Article 8(4) – the procedures used to establish whether a PRIIP targets specific environmental or social objectives

I. Background

The Joint Committee is requested to provide advice on delegated acts setting out details of the governance procedures PRIIPs manufacturers must follow when they offer PRIIPs which state that they have specific environmental objectives. The governance procedures should give substance to any claim made, and in doing so, supporting the credibility of the KID.

II. Scope of the Commission's delegated powers

Article 8(3)(c)(ii) allows PRIIPs manufacturers to state, where applicable, that a product targets environmental or social aims. Article 8(4) elaborates on this by empowering the Commission to adopt delegated acts on the procedures manufacturers used by PRIIPs manufacturers to establish and demonstrate targeting of environmental or social aims.

III. Excerpt from level 1 text

Article 8 (4) of PRIIPs

The Commission shall be empowered to adopt delegated acts in accordance with Article 30 specifying the details of the procedures used to establish whether a PRIIP targets specific environmental or social objectives.

IV. Questions and issues to be addressed

Where a KID states that a PRIIP targets environmental or social objectives, the manufacturer must be able to honour this commitment on an on-going basis. If this is not the case then the KID will have failed as it will not be accurate, fair, clear and not misleading as required under Article 6(1) of the Regulation.

The Joint Committee is requested to give advice in relation to the details of the internal product governance procedures PRIIPs manufacturers put in place. This should include consideration of what processes, systems and controls would be appropriate to ensure such internal product governance procedures are followed and validated.

In giving its advice, the Joint Committee will consider the sectoral legislation that applies to PRIIPs manufacturers. In particular, the Joint Committee will consider the product governance requirements and validation procedures set out in such legislation and whether it is adequate to ensure the disclosed environmental or social objectives are met.

The Joint Committee's attention is drawn to MiFID 2 Articles 16(3) and 24(2), Solvency II Articles 41, 44 and 132(2), the Capital Requirements Regulation Article 187 and the Alternative Investment Fund

Managers Directive Article 15. The Joint Committee should also consider other articles and legislation it deems relevant.

The Commission has identified three process steps for determining whether PRIIPs manufacturers have appropriate governance systems in place to ensure the disclosed environmental or social objectives are met., and invites the Joint Committee to consider these steps. In doing so, the joint committee should also consider what extra measures might be necessary where sectoral legislation is found to be insufficient. The three process steps are:

1. The establishment of a policy statement specifying in detail the scope of the environmental or social objectives that are being targeted as well as the constraints, for example, in terms of risk/return, time horizon, liquidity, the investor will have to accept to meet these objectives.
2. The development of an investment strategy which carries the policy statement into practice with instructions on how the PRIIPs manufacturer must fulfil the mandate. The investment strategy should also include the methods by which investors' money is allocated across asset classes filtered in light of the aims set out in the policy statement.
3. The development and operation of processes, systems and controls to ensure that the investment strategy is properly implemented and adhered to over time. This could include regular reviews to ensure assets remain in line with the investment strategy, periodic reviews and reporting lines to responsible senior management.

The PRIIPs Regulation does not contemplate any form of labelling for products that target specific objectives, industries, sectors or outcomes. Nor is does it contemplate product regulation or any form of proscription of undertakings operating in particular industrial or geographical areas. The Joint Committee's advice should not explore areas that are not explicitly mandated by the level 1 text.