EFAMA alerts that the new PRIIPs rules will confuse and mislead investors

The new rules are threatening to cause serious investor detriment by mandating figures, particularly in relation to performance and costs, that will at best confuse investors and at worst mislead them.

EFAMA calls for urgent action

We urge EU policymakers to support investors by working urgently with the industry and relevant stakeholders to rectify the serious issues highlighted above and below. In the meantime, they also need to help explain the nature of the figures given to investors. It is vital that trust in investment products, and in the information to be provided to investors, is maintained and enhanced. This needs to be achieved through providing investors with truly reliable and not misleading product disclosures on which to base their investment decisions.

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On 3 January 2018, the new PRIIPs rules will go live. These rules are designed to enhance investors' understanding of retail investment products whether bank, insurance or fund-based. They do so by adapting existing UCITS disclosure rules (the UCITS Key Investor Information Document, or KIID) into a PRIIP Key Information Document or KID.

Like the UCITS KIID, the PRIIP KID is intended to provide meaningful, comprehensible and comparable information in order to make investors feel confident in their investment decisions.

EFAMA continues to fully support the initiative to provide to investors with transparent, comparable and understandable information through a PRIIP KID.

Unfortunately, it is becoming clear, as firms apply the new EU rules in practice, that they will not achieve the desired objective. Instead, **the new rules are threatening to cause serious investor detriment by mandating figures, particularly in relation to performance and costs, that will at best confuse investors and at worst mislead them**.

In short, the PRIIP KID risks forcing manufacturers to make claims for products that breach the fundamental principle that investor communication must be 'clear, fair and not misleading'. The new methodology for calculating transaction costs will also produce confusing and unreliable figures.

Over the past years, the European asset management industry systematically alerted EU policymakers throughout the rule-making process of these risks. We communicated repeatedly on the likelihood that the proposed rules would prove to be badly calibrated and on the negative consequences that they would have on PRIIPs investors. We did this jointly with investor representative associations. The industry also remodelled calculation methodologies and provided practical solutions to get the rules right for investors.

Regrettably, our concerns and proposals were ignored in the final rules.

This is clearly a problem for PRIIPs investors who will be presented with misleading PRIIP KIDs from 3 January 2018. However it is also a problem for UCITS investors because the Commission may choose

to scrap the UCITS KIID for the PRIIP KID in 2019. EFAMA considers this a serious retrograde step - indeed, a step back from the clarity of UCITS disclosure to the misleading obfuscation of PRIIPs.
Asset managers are already committed to complying with the PRIIPs rules either as managers of AIFs or in the service of PRIIPs manufacturers invested into their UCITS. **As firms are putting systems in place and calculating figures to produce or contribute to PRIIP KIDs, real data will evidence that our concerns with some of the new disclosure rules and their negative effects on investors will materialise.**

Specifically, **the methodology for calculating transaction costs and the new rules around future performance scenarios are fundamentally flawed. This in turn drastically challenges the ability of the PRIIP KID to assist investors in making good investment decisions - given both the value proposition (the fund's projected performance) and the cost proposition are seriously skewed**.

- **Cost calculations are based on partly inappropriate methodologies resulting in misleading information for the investors**: The new methodology for calculating transaction costs is producing unreliable figures. This new methodology systematically leads to the inclusion of market movements when calculating transactions costs, which is fundamentally wrong. The inclusion of market movements is, for example, distorting the figures and transaction costs disclosed to investors will, in many cases, be either overestimated or underestimated. The underlying data is not universally available (and in some cases, not reliable) so different managers have had to make different assumptions. This means that the figures will not be comparable. Investors will be presented with a confusing and misleading picture of the real costs of the product.

- **Past performance will no longer be disclosed in the PRIIP KID.** This is a regrettable step back from the UCITS KIID, given that investors will be deprived of an important element of information. Past performance (although not a guarantee for the future) allows investors to see whether an investment product has previously met its objectives and delivered value for its investors. Past performance presentation can also illustrate well the volatility of returns, something now missing in the context of scenarios.

- **Looking at future performance scenarios without further context will not help investors make investment decisions.** The future performance scenario framework is fundamentally flawed as it assumes that a market will operate in a single direction effectively indefinitely. Currently available data shows that performance scenarios will be based on the very positive market returns of recent years. This means that investors will be provided with excessively optimistic performance scenarios that assume sometimes yearly double-digit growth rates over the product's whole recommended holding period, making no distinction whether it is one, five or forty years.

  Such overly optimistic scenarios may not only lead to wrong investment decisions, but also contradict the PRIIPs Regulation's overarching principle to provide fair, clear and non-misleading information. The methodology in the rules, if not reverted and corrected, will lead to misleading results even in relatively short recommended holding periods of five years and ever more so for longer recommended holding periods. Finally, the methodology risks pro-cyclical investor behaviour as investors respond to signals based on the stage of the market cycle during which the disclosure material is produced.

- **Meaningful comparisons between similar investment products will become impossible:** because costs are now averaged over a product's recommended holding period, cost comparisons will not be possible for products with different holding periods.

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