

Annex E

Amendments to the PRIIPs RTS

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

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

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), and in particular Article 8(5), Article 10(2) and Article 13(5) thereof,

Whereas:

(1) ...

...

(9) While estimates on returns from a PRIIP are difficult to produce and understand, information on ~~such estimates are~~ performance is of primary interest for retail investors and should be included in the key information document. Retail investors should be provided with clear information on ~~return estimates that is~~ the main factors likely to determine or influence investment performance and any fluctuations in the value of the PRIIP, including relevant correlations and benchmarks, in a manner consistent with realistic assumptions about possible outcomes and with the estimates of the PRIIP's level of market risk, presented in such a way so as to ~~make clear the uncertainty of that information and the fact that better or worse outcomes are possible~~ enable the investor to form a reasonable understanding of how the PRIIP is likely to perform across an appropriately diverse and relevant range of market conditions.

...

(18) Where individual key information documents for each option are deemed not appropriate for retail investors by the PRIIP manufacturer, specific information about the underlying investment options and the generic information about the PRIIP, should be provided, separately. To avoid confusion, the generic information about the PRIIP provided in the key information document should indicate the range of risks, factors determining or influencing performance and costs that can be expected across the different underlying investment options offered. ...

...

20. Data that is used for preparing the information contained in the key information document, such as data on costs, risks and information on performance scenarios, may change over time. Changing data can lead to changes in the information to be included, such as a change in the risk or costs indicators. ...

...

CHAPTER I

CONTENT AND PRESENTATION OF THE KEY INFORMATION DOCUMENT

Article -2

Interpretation

- (4) In this Regulation, unless the contrary intention appears:
- (a) ...

...

Article -1

Definitions

- (4) For the purposes of this Regulation, the following definitions apply:
- (a) ...
- ...
- (d) 'UK UCITS' has the meaning given in section 237(3) of FSMA;
- (e) a 'derivative-based PRIIP' is a Category 1 PRIIP that is a future, call option, or a put option traded on a regulated market or on a third-country market considered to be equivalent to a regulated market in accordance with Article 28 of Regulation (EU) 600/2014.

...

Article 3

'What are the risks and what could I get in return?' section

- (1) In the section entitled "What are the risks and what could I get in return?" of the key information document, PRIIP manufacturers shall apply the methodology for the presentation of risk as set out in Annex II, include the technical aspects for the presentation of the summary risk indicator as set out in Annex III and comply with the technical guidance, the formats and the methodology criteria for the presentation of performance scenarios information, as set out in ~~Annexes IV and V~~ Annex 4A.
- (1A) By way of derogation from paragraph 1:
- (a) subject to sub-paragraph (b), a PRIIP manufacturer must ensure the summary risk indicator produced via application of the methodology set out in Annex II is appropriate and unlikely to mislead investors in the PRIIP, if necessary by

increasing the summary risk indicator that would otherwise be assigned to the PRIIP under that methodology; and

- (b) in respect of a PRIIP which is issued by a venture capital trust, a PRIIP manufacturer must assign a summary risk indicator no lower than 6 or 7.

...

- (3) ~~PRIP manufacturers shall include four appropriate performance scenarios information on investment performance, as set out in Annex V 4A in the section entitled “What are the risks and what could I get in return?” of the key information document. Those four performance scenarios shall represent a stress scenario, an unfavourable scenario, a moderate scenario and a favourable scenario.~~
- (4) ~~For insurance-based investment products, an additional performance scenario shall be included in the section entitled “What are the risks and what could I get in return?” of the key information document reflecting the insurance benefit the beneficiary receives where a covered insured event occurs.~~
- (5) ~~For PRIIPs that are futures, call options and put options traded on a regulated market or on a third country market considered to be equivalent to a regulated market in accordance with Article 28 of Regulation (EU) No 600/2014 of the European Parliament and of the Council, performance scenarios shall be included in the form of pay-off structure graphs as set out in Annex V in the section entitled “What are the risks and what could I get in return?” of the key information document.~~

...

CHAPTER III

REVIEW AND REVISION OF THE KEY INFORMATION DOCUMENT

Article 15

Review

- (1) ...
- (2) The review referred to in paragraph 1 shall verify whether the information contained in the key information document remains accurate, fair, clear, and non-misleading. In particular, it shall verify the following:
- (a) whether the information contained in the key information document is compliant with the general form and content requirements under Regulation (EU) No 1286/2014, or with the specific form and content requirements laid down in this Delegated Regulation;
- (b) whether the PRIIP’s market risk or credit risk measures have changed, where such a change has the combined effect that necessitates the PRIIP’s move to a

different class of the summary risk indicator from that attributed in the key information document subject to review;

- (c) ~~whether the mean return for the PRIIP's moderate performance scenario, expressed as an annualised percentage return, has changed by more than five percentage points~~ whether the performance information narrative continues to provide investors with a fair impression of how the PRIIP is likely to perform under an appropriately diverse and relevant range of market conditions.

...

...

CHAPTER IV

CHAPTER IV DELIVERY OF THE KEY INFORMATION DOCUMENT

...

Article 18

Final Provision

...

Article 14(2) shall apply until 31 December ~~2019~~ 2026.

...

ANNEX I

TEMPLATE FOR THE KEY INFORMATION DOCUMENT

PRIIP manufacturers shall comply with the section order and titles set out in the template, which however does not fix parameters regarding the length of individual sections and the placing of page breaks, and is subject to an overall maximum of three sides of A4-sized paper when printed.

Key Information Document	
Purpose	
This document provides you with key information about this investment product. It is not marketing material. The information is required by law to help you understand the nature, risks, costs, potential gains and losses of this product and to help you compare it with other products.	
Product	
[Name Of Product] [Name Of PRIIP manufacturer] [where applicable ISIN or UPI] [website for PRIIP manufacturer] Call [telephone number] for more information [date of production of the KID]	
[Alert (where applicable) You are about to purchase a product that is not simple and may be difficult to understand]	
What is this product?	
Type	
Objectives	
Intended retail investor	
[Insurance benefits and costs]	
What are the risks and what could I get in return?	
Risk Indicator	Description of the risk-reward profile Summary Risk Indicator SRI template and narratives as set out in Annex III, including on possible maximum loss: can I lose all invested capital? Do I bear the risk of incurring additional financial commitments or obligations? Is there capital protection against market risk?
Performance Scenarios	Performance Scenario templates and narratives as set out in Annex V including where applicable information on conditions for returns to retail investors or built in performance caps, and statement that the tax legislation of the United Kingdom may have an impact on actual payout
<u>Investment performance information</u>	<u>Appropriate narrative information on the drivers of investment performance as set out in Annex 4A</u>

What happens if [PRIIP Manufacturer] is unable to pay out?

Information on whether there is a guarantee scheme, the name of the guarantor or investor compensation scheme operator, including the risks covered and those not covered.

What are the costs?

Costs over time	Template and narratives according to Annex VII
Composition of costs	Template and narratives according to Annex VII Narratives on information to be included on other distribution costs

How long should I hold it and can I take money out early?**Recommended [required minimum] holding period?**

Information on whether one can disinvest before maturity, the conditions on this, and applicable fees and penalties if any. Information on the consequences of cashing-in before the end of the term or before the end of the recommended holding period

How can I complain?**Other relevant information**

ANNEX II
METHODOLOGY FOR THE PRESENTATION OF RISK
PART 1

Market risk assessment

Determination of the market risk measure (MRM)

(1) ...

...

Use of appropriate benchmarks or proxies to specify PRIIPs categories

(7A) Where appropriate benchmarks or proxies are used by a PRIIP manufacturer, those benchmarks or proxies shall be representative of the assets or exposures that determine the performance of the PRIIP. The PRIIP manufacturer shall document the use of such benchmarks or proxies and disclose them in the narrative performance information section of the key information document, as set out in Annex 4A.

MRM class determination for Category 1 PRIIPs

8. ...

...

ANNEX III
PRESENTATION OF SRI

Presentation format

(1) ...

Completion guidance with regard to the SRI

(2) ...

...

(6) For ~~derivatives~~ derivative-based PRIIPs ~~that are futures, call options and put options traded on a regulated market or on a third country market considered to be equivalent to a regulated market in accordance with Article 28 of Regulation (EU) No 600/2014,~~ Elements A, B, and, where relevant, H, shall be included.

Narrative explanations

(7) For the purposes of the SRI presentation, including point 4 of this Annex, the following narrative explanations shall be used, as appropriate:

[Element A] ...

...

[Where applicable:] [Element E] [Other risks materially relevant to the PRIIP not included in the summary risk indicator to be explained with a maximum of ~~200~~ 400 characters]

[Where applicable:] [Element F] ...

...

ANNEX IV PERFORMANCE SCENARIOS is deleted in its entirety. The deleted text is not shown but the annex is marked [deleted] as shown below.

ANNEX IV
PERFORMANCE SCENARIOS [deleted]

Amend the following as shown.

ANNEX 4A
PERFORMANCE INFORMATION

- (1) The section entitled ‘What are the risks and what could I get in return?’ of the PRIIP’s key information document must include appropriate performance information summarising, in narrative form, the main drivers of investment performance for the PRIIP.

- (2) The PRIIP manufacturer must ensure the performance information is:
 - (a) accurate, fair, clear, non-misleading and likely to be understood by the retail investors to whom the PRIIP may be offered;
 - (b) compatible with the information stating the objectives of the PRIIP disclosed in accordance with article 2(2);
 - (c) likely to be useful to retail investors in assessing the prospects for future returns of investment in the PRIIP as well as comparing it with other PRIIPs; and
 - (d) supported by objective data.

- (3) The information must, as a minimum, include the following elements:
 - (a) a description of the main factors likely to affect future returns for the investor, identifying those most likely to determine the outcome of the investment and other factors which could have a material impact on performance;
 - (b) identification of the most relevant index, benchmark, target, or proxy, as applicable, along with an explanation of how the PRIIP is likely to compare in terms of performance and volatility;
 - (c) under a sub-heading ‘what could affect my return positively?’, a brief explanation of the kinds of conditions that would be conducive to the PRIIP generating higher returns;
 - (d) under a sub-heading ‘what could affect my return negatively?’, a brief explanation of the kinds of conditions whereby the PRIIP is likely to generate lower returns or lead to investment loss; and
 - (e) a brief description of what outcome the investor may expect where the PRIIP matures or is redeemed or encashed under severely adverse market conditions.

ANNEX V METHODOLOGY FOR THE PRESENTATION OF PERFORMANCE SCENARIOS is deleted in its entirety. The deleted text is not shown but the annex is marked [deleted] as shown below.

~~ANNEX V~~
~~METHODOLOGY FOR THE PRESENTATION OF PERFORMANCE SCENARIOS~~
[deleted]

Amend the following as shown.

ANNEX VI
 METHODOLOGY FOR THE CALCULATION OF COSTS
 PART 1

List of costs

I. LIST OF COSTS OF INVESTMENTS FUNDS (AIFs AND UCITS)

Costs to be disclosed

One-off costs

(1) ...

...

Calculation of specific types of costs of investments funds

Transaction costs

- (7) Transaction costs shall be calculated on an annualised basis, based on an average of the transaction costs incurred by the PRIIP over the previous three years, with the average taken from all transactions. Where the PRIIP has been operating for less than three years, transaction costs shall be calculated using the methodology set out in point 21 - 23 of this Annex.
- (8) The aggregate transaction costs for a PRIIP shall be calculated as the sum of the transaction costs as calculated in accordance with points 9 to 23A of this Annex in the base currency of the PRIIP for all individual transactions undertaken by the PRIIP in the specified period. This sum shall be converted into a percentage by dividing by the average net assets of the PRIIP over the same period.
- (9) ...
- (10) Estimates of transaction costs using the methodology described below in points 19 to 20 of this Annex must be used for investments in other instruments or assets. Transaction costs associated with non-financial assets must be calculated in accordance with point 20A of this Annex.

Treatment of anti-dilution mechanisms

- (11) Where a PRIIP has a pricing mechanism that offsets the impact of dilution from transactions in the PRIIP itself, the amount of benefit accruing to the ongoing holders

of the PRIIP from anti-dilution mechanisms may be deducted from the transaction costs incurred within the PRIIP using the following methodology:

(a) ...

...

(c) the anti-dilution benefit shall only be taken into account to the extent that the benefit does not take the total transaction costs below explicit transaction costs;

(11A) A PRIIPs manufacturer must provide information about the total benefit derived from an anti-dilution mechanism as part of or alongside the breakdown of identifiable transaction costs (see Annex I, “What are the costs?”).

Actual transaction costs

...

(14) The arrival price shall be determined as the mid-market price of the investment at the time when the order to transact is transmitted to another person. For orders that are transacted on a day that is not the day that the order was originally transmitted to another person, the arrival price shall be determined as the opening price of the investment on the day of the transaction or, where the opening price is not available, the previous closing price. Where a price is not available at the time when the order to transact is transmitted to another person, ~~(due to the order initiated outside market opening hours or in over the counter markets where there is no transparency of intra-day prices for example), the arrival price shall be determined as the opening price on the day of the transaction~~ the arrival price shall be determined as the most recently available price or, where a recent price is not available, a justifiable independent price or, where a justifiable independent price is not available, the opening price on the day of the transaction or, where the opening price is not available, the previous closing price. Where an order is executed without being transmitted to another person, the arrival price shall be determined as the mid-market price of the investment at the time when the transaction was executed.

(15) Where information about the time when the order to transact is transmitted to another person is not available (or not available to a sufficient level of accuracy), or where information about the price at that time is not available, ~~it is permissible to use as the arrival price the opening price of the investment on the day of the transaction~~ a justifiable independent price may be used as the arrival price or, where a justifiable independent price is not available, the opening price of the investment on the day of the transaction or, where the opening price is not available, the previous closing price. ~~When calculating transaction costs using data prior to 31 December 2017, intra-day prices may be considered as not available.~~

...

(18) In calculating the costs associated with orders that are initially entered into an auction, the arrival price shall be calculated as the mid-price immediately prior to the auction. In calculating the costs associated with orders that are executed at a predetermined time, the arrival price shall be calculated at that pre-determined time, even if the order has been transmitted for execution before that time.

Transactions executed on an over-the-counter basis

(18A) By way of derogation from points 12 to 16 of this Annex for transactions executed on an over-the-counter basis, the actual transaction costs shall be calculated in the following way:

- (a) Where a transaction is executed after bid prices and offer prices have been obtained from more than one potential counterparty, the arrival price shall be determined as:
 - (i) the mid-point between the best bid price and best offer price, where the best bid price is below the best offer price;
 - (ii) the best bid price in the case of a sale or the best offer price in the case of a purchase, where the best bid price is higher than the best offer price.
- (b) Where a transaction is executed without both bid prices and offer prices having been obtained, the transaction cost shall be calculated by multiplying the number of units transacted by half the value of the spread between the bid price and the offer price of the instrument. The value of that spread shall be calculated on the following basis:
 - (i) from a composite of live market bid/offer quotes, where available;
 - (ii) where live market quotes are not available they shall be obtained by reference to spreads from either:
 - previous transactions in assets bearing similar characteristics (duration, maturity, coupon, call-/put-ability) and liquidity, using transactions previously executed by the PRIIP manufacturer; or
 - data verified by an independent third party or an asset valuation from an independent third party.

Transaction costs for other assets

...

(20A) When calculating the costs associated with non-financial assets, the transaction costs shall be calculated as the aggregate of the actual costs directly associated with that transaction, including all charges, commissions, taxes and other payments (such as anti-dilution levies), where those costs are made from the assets of the PRIIP. In the case of cost depreciation over a period specified in the PRIIP's accounting policies, actual costs shall be equal to the cost amounts depreciated over the last three years.

Transaction costs for new PRIIPs

...

Low number of transactions and other similar cases

(23A) By way of derogation from points 12 to 18 of this Annex, transaction costs may be calculated using the methodology described in point 21(b) of this Annex where one or more of the following conditions is met:

- (a) a PRIIP undertook a very low number of transactions over the previous three years;
- (b) the total value for all transactions undertaken over the previous three years accounts for a very low percentage of the net asset value of the PRIIP;

- (c) the estimate of total transaction costs is not significant as compared to the estimate of the total costs.

Use of data prior to 31 December 2029

- 23B. Until 31 December 2029, transaction costs may be calculated using the methodology laid down in point 21 of this Annex for PRIIPs that are UCITS or AIFs.
- 23C. Until 31 December 2029, where an insurance-based investment product invests in a UCITS or AIF, the transaction costs for those investments may be calculated using the methodology laid down in point 21 of this Annex.

Performance related fees

...

Carried interests

...

II. LIST OF COSTS OF PRIIPS OTHER THAN INVESTMENT FUNDS

Costs to be disclosed

...

Costs of PRIIPs ~~referred to in point 17 of Annex IV~~ that are derivative-based PRIIPs

...

PART 2

Summary cost indicators and compound effect of the costs

I. SUMMARY COST INDICATORS

...

- (62) For the calculation of the summary cost indicator the costs to be disclosed referred to in point 72 of this Annex shall be the total costs. This shall equal for investment funds the sum of the costs as referred to in points 1 and 2 of this Annex plus the sum of the costs as referred to in points 4 and 6 of this Annex; for PRIIPs other than investment funds, except derivative-based PRIIPs ~~referred in point 17 of Annex IV~~, the sum of the costs as referred to in points 27 and 28 of this Annex plus the sum of the costs as referred to in points 31 and 32 of this Annex; for derivative-based PRIIPs ~~referred to in point 17 of Annex IV~~, the sum of the costs as referred to in points 34 and 35 of this Annex; and for insurance-based investment products, the sum of the costs as referred to in points 47 and 48 plus the sum of the costs as referred to in points 50 and 51 of this Annex. The total costs shall also include exit penalties, where relevant.

One-off costs and one-off costs ratios

...

- (64) For the calculation of the entry and exit costs ratio the costs to be disclosed referred to in point 72 of this Annex shall for investments funds be the entry and exit costs according to points 1 and 2 of this Annex; points 27 and 28 of this Annex for PRIIPs other than investment funds, except derivative-based PRIIPs ~~referred in point 17 of Annex IV~~; point 35 for derivative-based PRIIPs ~~referred in point 17 of Annex IV~~; and

points 47 and 48 of this Annex for insurance-based investment products. Exit costs shall also include exit penalties, where relevant.

Recurring costs, portfolio transaction costs and insurance costs/other recurring costs ratios

...

- (66) For the calculation of the portfolio transaction costs ratio and the insurance costs ratio the following shall apply:
- (a) for the calculation of the portfolio transaction, the costs to be disclosed referred to in point 72 shall be the portfolio transaction costs according to points 7 to 23 of this Annex for investment funds, point 29(c) of this Annex for PRIIPs other than investment funds, except derivative-based PRIIPs ~~referred in point 17 of Annex IV~~, and point 52(h) of this Annex for insurance based investment products;
 - (b) ...

...

Calculation of summary cost indicator

...

- (71) The estimation of future benefit payments under point 70 of this Annex shall be based on the following assumptions:
- (a) except for derivative-based PRIIPs ~~as referred to in point 17 of Annex IV~~, the annual internal rate of return, i.e. the performance, of the PRIIP shall be assumed to be a return equivalent calculated applying the methodology and the underlying hypothesis used for the estimation of the a moderate performance scenario based on reasonable and robust assumptions and methodology from the performance scenarios section of the key information document; ~~from the performance scenarios section of the key information document~~;

...

...

Insert the following new Transitional Provision after Annex VII PRESENTATION OF COSTS. The text is not underlined.

PRIPPS Transitional provisions
RTS TP 1

TP 1.1 Transitional provisions table

(1)	(2) Material to which transitional provision applies	(3) Transitional provision	(4) Transitional provision: dates in force	(5) RTS provision: coming into force
1.1	Recital 9; Recital 18; Article -1; Article 3; Article 15; Annex I; Annex II; Annex III; Annex IV; Annex V; Annex VI	A person who manufactures, advises on or sells a PRIIP may choose to comply with the provisions listed in column (2) as if the changes made to them by the Packaged Retail and Insurance-Based Investment Products (Scope Rules and Technical Standards) Instrument 2022 had not been made.	From 25 March 2022 to 31 December 2022	25 March 2022