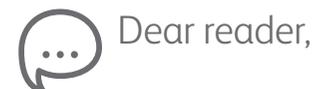
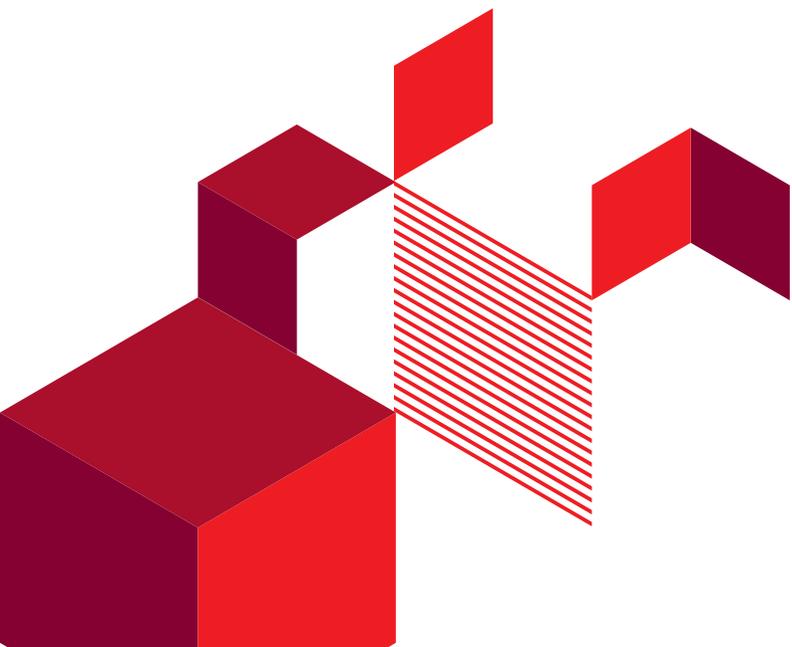


Global Regulatory Intelligence Initiatives

Insurance, Banking and Financial Services

#July-August 2016 #Focus on PRIIPs: KID Journey



Dear reader,

Uncertainty around the compliance deadline for EU Regulation Packaged Retail Investment and Insurance Products (PRIIPs) was underlined when the European Parliament voted against the Level 2 Regulatory Technical Standards (RTS) supplementing the Regulation (September 14th, 2016). PRIIPs is due to take effect on December 31st, 2016, but this second vote objecting to the RTS brings the deadline into doubt (the Economic and Monetary Affairs, ECON Committee of the European Parliament rejected the RTS earlier this month, September 1st, 2016). What the Commission will do next is not clear yet, several options are on the table but time is running before the Regulation goes live.

Despite the ongoing uncertainty, firms should keep the momentum and pursue their compliance programs, trying to struggle with the Key Information Document (KID) implementation challenges.

Focus on PRIIPs: KID Journey

KID dissemination challenges

- The KID will be distributed to a large number of recipients and also to various other distributors.
- It is a pre-contractual document, so it must reach the retail investor before they make a decision or commitment.
- Having an effective transmission process in place is essential.

Manufacturer	
Data collection	
<ul style="list-style-type: none">• Data provider• PRIIPs manufacturer• Calculation service provider• Translation service	
Document production	
<ul style="list-style-type: none">• PRIIPs KID production• Embedded translation• UCITS KIID production	
Document dissemination	
<ul style="list-style-type: none">• EU regulators• B2B / B2C networks• Stock exchanges• Distribution partners• Manufacturer website• Data vendors• Online platforms	

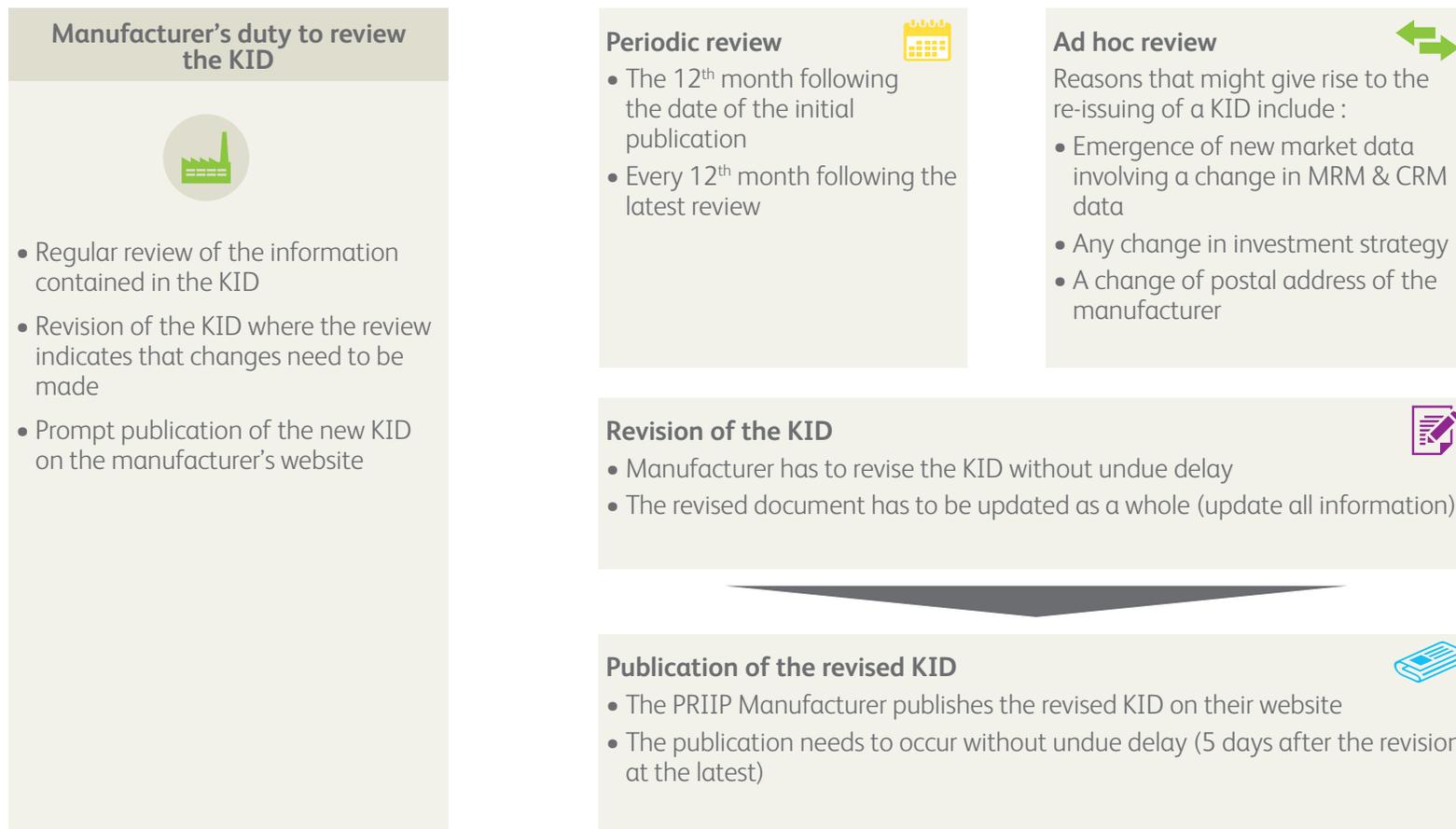
Distributor	
Provision of the PRIIPs KID	
<ul style="list-style-type: none">• PRIIP distributors are responsible for providing the retail client with the PRIIPs KID, generally within a decent timeframe before an investment decision is made• In the case of the first transaction of the PRIIP• Successive transactions (of the same PRIIP) if there was an update of the KID since the previous transaction• Specific requirements need to be met in order to provide the PRIIPs KID after conclusion of the transaction	
Means of the PRIIPs KID	
<p>Different options regarding the medium of the PRIIPs KID are available, taking into account the increase of digitalization of some parts of the value chain:</p> <ul style="list-style-type: none">• Paper• Durable medium• Website	



Focus on PRIIPs: KID Journey

KID review position updating/maintaining chain

The RTS do not require KIDs to be produced on demand or in real time e.g. on an intra-day basis, but they would not exclude such an approach neither. However, Every KID must follow the RTS rules, as defined below:



Following a review, the KID must be revised if it is no longer accurate, fair or clear, or if it is misleading or no longer compliant with the Regulation.



UPDATES

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MiFID II (Markets in Financial Instruments Directive II)

News

- The European Securities and Markets Authority (ESMA) issued on July 25th, 2016, → [a warning](#) about the sale of contracts for differences (CFDs), binary options and other speculative products to retail investors. The presence of these types of products gives rise to investor protection concerns, as they are inherently risky, complex and speculative. Retail investors are commonly unaware of the risks associated with these products and some have suffered significant losses when trading these products.
- The ESMA published on July 25th, 2016, an updated version of its → [Q&A document](#) on the application of the MiFID to the marketing and sale of financial contracts for differences (CFDs) and other speculative products to retail clients. It aims to promote common supervisory approaches and practices in the application of MiFID and its implementing measures to certain key aspects that are relevant when CFDs and other speculative products are marketed and sold to retail clients.
- The European Banking Authority (EBA) published on July 15th, 2016, → [templates and instructions](#) which are addressed to MiFID investment firms and to UCITS/ AIFMD (Undertakings for Collective Investment in Transferable Securities/Alternative Investment Fund Managers Directive) firms that conduct MiFID activities or services. These documents were produced in response to the European Commission (EC)'s → [Call for Advice](#) on June 13th, 2016, on a new prudential framework for MiFID investment firms which should be less complex, more risk sensitive and more proportionate than the current regime.
- The ESMA published on July 11th, 2016, → [translations of its guidelines on cross-selling practices](#). They aim to ensure a common, uniform and consistent application of these definitions. They helped to clarify some expected standards on full disclosure and prominent display and timely communication of price and cost information and key information on non-price features and risks when relevant.
- The ESMA submitted on July 1st, 2016 → [two amendments](#) on National client identifiers for natural persons to the EC in relation to → [the draft Regulatory Technical Standards](#) on reporting obligations under Article 26 of the MiFIR (RTS 22). The identifiers for natural persons which must be used in transaction reports, specified in Annex II of RTS 22. The two propositions are either the use of only “CONCAT” codes only, for the identification of natural persons of German nationality instead of a “personal identity card number” or “national passport number”; and the English translation for the Icelandic identifier “Kennitala” is corrected to “Personal Identity Code” from “National Passport Number”.





UPDATES

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MAR (Market Abuse Regulation)

Reminder

- Regulation → [No 596/2014](#) on market abuse and Directive → [2014/57/EU](#) on criminal sanctions for market abuse have been published in the EU Official Journal on June 12th, 2014. The new rules update and strengthen the existing framework to ensure market integrity and investors' protection provided by the existing Market Abuse Directive (2003/6/EC).

News

- The ESMA published on July 27th, 2016, → [final Implementing Technical standards](#) (ITS) on how National Competent Authorities (NCAs) should notify ESMA of the investigations they conduct and the sanctions and measures imposed in their Member States under MAR through two types of reports:
 - Local regulators shall annually provide a report with aggregated information regarding administrative and criminal sanctions
 - Local regulators shall simultaneously report to ESMA all information that will be publicly disclosed
- The ESMA issued on July 13rd, 2016 → [final guidelines](#) clarifying the implementation of MAR for persons receiving market soundings and on delayed disclosure of inside information which notably detail the factors, the steps and the records to prove they comply with the Regulation.
- The ESMA updated on July 13rd, its → [Q&A](#) regarding the implementation of MAR.

The European Commission (EC) published on July 1st, 2016, → [new rules to fight insider dealing and market manipulation](#) in Europe's financial markets. The new framework will strengthen the fight against market abuse across commodity and related derivative markets, explicitly ban the manipulation of benchmarks, such as LIBOR, and reinforce the investigative and sanctioning powers of regulators.

Anti-Money Laundering (AML) - Counter-Terrorism Financing (CTF)

Reminder

- The European Commission adopted in June 2014, two proposals to reinforce the European existing rules: a proposal for a → [Directive](#) on the prevention of financial system usage for money laundering and terrorist financing and a proposal for a → [Regulation](#) on information accompanying transfers of funds.

News

- TRACFIN issued on August 1st, 2016, the → [2015 annual activity report](#), highlighting the involvement of banks and credit institutions in the fight against money laundering and terrorism financing.
- The Association Française de la Gestion financière (AFG) posted in August 2016 → [a new order to freeze assets](#) (application of Articles L.562-2 and following of the Monetary and Financial Code), published in the Official Journal of the French Republic on August 25th, 2016.





UPDATES

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Credit Risk

News

- The EBA published on July 21st, 2016, → [final draft Regulatory Technical Standards \(RTS\) on assessment methodology for IRB approach](#). These final draft RTS are part of the EBA's plan of a regulatory review of the IRB approach, with the aim of achieving supervisory convergence, mainly in terms of comparability of risk weighted exposure amounts (RWAs).
- The EBF published on July 1st, 2016, a paper on the → [Interaction between the prudential and accounting framework](#). This occurs in the context of the entry into force of IFRS9 on January 1st, 2018, implying a change in the interaction between capital and provisions, since the new accounting standard introduces a notion of expected losses for provisioning purposes.

Basel III - CRR/CRD IV

News

- The Basel Committee on Banking Supervision (BCBS) published on August 29th, 2016, a → [report to G20 leaders on progress and challenges in the implementation of the Basel III regulatory reforms](#) since last November 2015 report.
- The European Banking Authority (EBA) issued on August 3rd, 2016, its → [Report on the Leverage Ratio \(LR\) requirements under Article 511 of the Regulation \(EU\) No 575/2013 \(Capital Requirements Regulation - CRR\)](#). The EBA report recommends the introduction of a minimum LR requirement of 3% in the EU to mitigate the risk of excessive leverage.

- The Autorité de contrôle prudentiel et de résolution (ACPR) issued on August 1st, 2016 → [the results of the 6 French banking groups in the EU-wide stress test](#) launched by the EBA on February 24th, 2016.
- The European Banking Authority (EBA) issued on July 27th, 2016, its → [final draft Regulatory Technical Standards \(RTS\) on criteria for the application of a preferential treatment in cross-border intragroup credit or liquidity lines, or within an IPS](#). These RTS further specify additional criteria in the context of the liquidity coverage ratio (LCR) Delegated Act: a low liquidity risk profile of the liquidity provider and receiver required in the LCR Delegated Act will be determined on the basis of its compliance with the LCR and the Pillar 2 requirements and the outcome of the latest supervisory review and evaluation process. A written and reasoned legal opinion will then be expected from credit institutions to certify that the credit or liquidity line in the LCR Delegated Act is a committed line legally and practically available at any time.
- The (BCBS) published on July 11th, 2016, an → [updated standard for the regulatory capital treatment of securitization exposures](#) which amends the Committee's 2014 capital standards for securitizations by including the regulatory capital treatment for "simple, transparent and comparable" (STC) securitizations, and setting out additional criteria to differentiate the capital treatment of STC securitizations from that of other securitization transactions. A consultation for similar issues related to short-term STC securitizations is expected around year-end.
- The EBA published on July 11th, 2016, a → [second update of its report on monitoring of additional Tier 1 \(AT1\) instruments](#) including new provisions, and → standardized templates for AT1 instruments in order to cover the prudential provisions of the AT1 issuances.
- The European Banking Federation (EBF) responded on July 8th, 2016, to the BCBS consultation on the revision to the Basel III LR framework, issued on April 6th, 2016, (→ [EBF response](#)): a LR could be harmful combined with the solvency and liquidity ratios as it would create conflicting pressures to reduce balance sheets.





UPDATES

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Solvency II

Reminder

- The European Commission adopted on October 10th, 2014, delegated acts under the → [Solvency II Directive](#) and the Capital Requirements Regulation which will help promote high quality securitization, ensure that banks have sufficient liquid assets in testing circumstances and introduce international comparability to leverage ratios. The directive came into force in January 1st, 2016.
- Solvency II is organized around 3 pillars:
 - Pillar 1: quantitative requirements with new calculation methods for capital requirements
 - Pillar 2: qualitative requirements and supervising process (internal control and risk management)
 - Pillar 3: information to communicate to the supervisor and the public

News

- The European Commission (EC) issued on August 8th, 2016, → [commission implementing regulation laying down technical information for the calculation of technical provisions and basic own funds for reporting](#). Insurance and reinsurance undertakings shall use the same technical information, which is based on market data, for calculating technical provisions and basic own funds for reporting irrespective of the date on which they report to their competent authorities. Technical information for the reporting with reference dates from June 30th, until September 29th, 2016, to calculate the best estimate, the matching adjustment and the volatility adjustment is provided in annexes and applicable from June 30th, 2016.

Fatca

News

- The IRS published on July 1st, 2016, a new → [FAQ](#) regarding submission of Form 8809-I when an additional 90 Day Extension to file Form 8966 has been requested.
- In July 2016, several countries announced an extension of a reporting deadline. → [India: December 31st, 2016, for pre existing individual account](#)
 - Curacao: July 1st, 2016
 - Portugal: September 30th, 2016

Common Reporting Standard (CRS)

News

- The OECD released on July 11st, 2016, a → [standardized IT-format](#) for providing structured feedback on exchanged Common Reporting Standard information.
- The Luxembourg's Council of Government adopted on July 6th, 2016, a → [Grand-Ducal regulation draft](#) amending the regulation of March 15th, 2016, regarding the removal of the USA from the list of participating jurisdictions.
- The Hong Kong government published on June 30th, 2016, the → [Inland Revenue \(Amendment\) Ordinance 2016](#) regarding the implementation of AEOI from January 1st, 2017.



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