



EUROPEAN COMMISSION

Directorate-General for Financial Stability, Financial Services and Capital Markets Union
FINANCIAL MARKETS

Asset Management

Brussels,
FISMA.C4/DG/sd/Ares(2016)
fisma.ddg.c.4(2016)1298480

Timothy R. Hailes
Chairman
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By e-mail:
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Subject: Your letter dated 17 February 2016 - PRIIPS Regulation – significant uncertainties

Dear Mr Hailes,

Thank you for sharing with our Commissioner your views and concerns relating to the PRIIPs Regulation. He has asked me to reply to you on his behalf.

On the wording of the PRIIPs definition, any investment product for which the investor gains exposure to assets/underlying values that he/she is not acquiring directly fulfils the definition of a PRIIP and must therefore come with a key information document (KID), unless it is explicitly exempted.

The PRIIPs Regulation does not make any distinctions in relation to the product's intended purpose, such as, for investment, risk management or hedging purposes. Given that the KID is a pre-contractual document and is to be used both in advised and non-advised sales of PRIIPs,

the KID needs to present the product features on a stand-alone basis, i.e. not based on the investor's targeted objective.

It is for product manufacturers to assess the application of these requirements to individual products. However, we are aware of your concerns and we will closely cooperate with the ESAs to ensure that guidance is provided as soon as possible to take into account the particular features of certain investment products, such as derivatives.

On territorial scope, where a PRIIP is offered to a non-EU retail investor by a European manufacturer via an intermediary established in the non-EU country, the obligations of the PRIIPS Regulation do not apply. The Regulation will apply to PRIIPs offered to retail investors domiciled in EEA countries, but as for the timing of its application we advise you to refer to the EFTA Surveillance Authority (<http://www.eftasurv.int/>).

Another comment that you raised is related to the transitional provisions for existing PRIIPs (i.e. PRIIPs offered prior to the application date of the Regulation and that are traded on secondary markets). The PRIIPS Regulation does not provide any grandfathering provisions, therefore all PRIIPs offered to retail investors as of the date of application of the Regulation need to come with a KID, regardless of whether they are new or existing products. We are aware of the challenges and complexity associated with implementing the requirements and stand ready to work with you to provide additional clarity as needed.

Yours sincerely,



Sven Gentner
Head of Unit

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