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2009 - 2014

Committee on the Internal Market and Consumer Protection

2012/0169(COD)

31.1.2013

AMENDMENT 26 - 151

Draft opinion
Pier Antonio Panzeri
(PE502.121v02)

on the proposal for a regulation of the European Parliament and of the Council
on key information documents for investment products

Proposal for a regulation
(COM(2012)0352 – C7-0000/2013 – 2012/0169(COD))

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United in diversity

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Amendment 26
Sirpa Pietikäinen

Proposal for a regulation
Recital 4

Text proposed by the Commission

(4) It is necessary to establish uniform rules at the level of the Union applying across all participants of the investment product market on transparency so as to prevent divergences. A Regulation is necessary to ensure that a common standard for key information documents is established in such a uniform fashion so as to be able to harmonise the format and the content of these documents. The directly applicable rules of a Regulation should ensure that all participants in the investment product market are subject to the same requirements. This should also ensure uniform disclosures by preventing divergent national requirements as a result of the transposition of a Directive. The use of a Regulation is also appropriate to ensure that all those selling investment products are subject to uniform requirements in relation to the provision of the key information document to retail investors.

Amendment

(4) It is necessary to establish uniform rules at the level of the Union applying across all participants of the investment product market on transparency so as to prevent divergences. A Regulation is necessary to ensure that a common standard for key information documents is established in such a uniform fashion so as to be able to harmonise the format and the content of these documents. The directly applicable rules of a Regulation should ensure that all participants in the investment product market are subject to the same requirements. This should also ensure uniform disclosures by preventing divergent national requirements as a result of the transposition of a Directive. The use of a Regulation is also appropriate to ensure that all those **advising on or** selling investment products are subject to uniform requirements in relation to the provision of the key information document to retail investors.

Or. en

Amendment 27
Thomas Händel

Proposal for a regulation
Recital 6

Text proposed by the Commission

(6) This Regulation should apply to all

Amendment

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products regardless of their form or construction that are manufactured by the financial services industry to provide investment opportunities to retail investors, where the return offered to the investor is exposed to the performance of one or more assets or reference values *other than an interest rate*. This should include such investment products as investment funds, life insurance policies with an investment element, and retail structured products. *For these products, investments are not of a direct kind achieved when buying or holding assets themselves. Instead these products intercede between the investor and the markets through a process of "packaging", wrapping or bundling together assets so as to create different exposures, provide different product features, or achieve different cost structures as compared with a direct holding. Such "packaging" can allow retail investors to engage in investment strategies that would otherwise be inaccessible or impractical, but can also require additional information to be made available, in particular to enable comparisons between different ways of packaging investments.*

products regardless of their form or construction that are manufactured by the financial services industry to provide investment opportunities to retail investors, where the return offered to the investor is exposed to the performance of one or more assets or reference values. This should include such investment products as investment funds, life insurance policies with an investment element, and retail structured products.

Or. de

Amendment 28
Pier Antonio Panzeri

Proposal for a regulation
Recital 7

Text proposed by the Commission

(7) In order to ensure this Regulation applies solely to such packaged investment products, insurance products that do not offer investment opportunities and products solely exposed to interest rates should thereby be excluded from the

Amendment

deleted

scope of the Regulation. Assets that would be held directly, such as corporate shares or sovereign bonds, are not packaged investment products, and should therefore be excluded. Since the focus of this Regulation is on improving the comparability and comprehensibility of information about investment products being marketed to retail investors, occupational pension schemes which fall under the scope of Directive 2003/41/EC of the European Parliament and of the Council of 3 June 2003 on the activities and supervision of institutions for occupational retirement provision¹¹ or Directive 2009/138/EC of the European Parliament and the Council of 25 November 2009 on the taking up and pursuit of the business of Insurance and Reinsurance (Solvency II),¹² should not be subject to this Regulation. Similarly, certain occupational pension products which fall outside the scope of Directive 2003/41/EC should be excluded from the scope of this Regulation, provided that a financial contribution from the employer is required by national law and provided that the employee has no choice as to the pension product provider. Investment funds dedicated to institutional investors are not within the scope of this Regulation either since they are not for sale to retail investors. However, investment products with the purpose of accumulating savings for individual pensions should remain in scope because they often compete with the other products under this Regulation and are distributed in a similar way to the retail investor.

Or. en

Amendment 29
Thomas Händel

Proposal for a regulation

Recital 7

Text proposed by the Commission

(7) In order to ensure this Regulation applies solely to such packaged investment products, insurance products that do not offer investment opportunities and products solely exposed to interest rates should thereby be excluded from the scope of the Regulation. Assets that would be held directly, such as corporate shares or sovereign bonds, are not packaged investment products, and should therefore be excluded. Since the focus of this Regulation is on improving the comparability and comprehensibility of information about investment products being marketed to retail investors, occupational pension schemes which fall under the scope of Directive 2003/41/EC of the European Parliament and of the Council of 3 June 2003 on the activities and supervision of institutions for occupational retirement provision or Directive 2009/138/EC of the European Parliament and the Council of 25 November 2009 on the taking up and pursuit of the business of Insurance and Reinsurance (Solvency II), should not be subject to this Regulation. Similarly, certain occupational pension products which fall outside the scope of Directive 2003/41/EC should be excluded from the scope of this Regulation, provided that a financial contribution from the employer is required by national law and provided that the employee has no choice as to the pension product provider. Investment funds dedicated to institutional investors are not within the scope of this Regulation *either* since they are not for sale to retail investors. However, investment products with the purpose of accumulating savings for individual pensions should remain in scope because they often compete with the other products under this Regulation and

Amendment

(7) Investment funds dedicated to institutional investors are not within the scope of this Regulation since they are not for sale to retail investors. However, investment products with the purpose of accumulating savings for individual pensions should remain in scope because they often compete with the other products under this Regulation and are distributed in a similar way to the retail investor.

are distributed in a similar way to the retail investor.

Or. de

Amendment 30
Thomas Händel

Proposal for a regulation
Recital 9

Text proposed by the Commission

(9) Investment product manufacturers – such as fund managers, insurance undertakings, issuers of securities, credit institutions or investment firms – should draw up the key information document for the investment products they manufacture, as they are in the best position to know the product and are responsible for it. The document should be drawn up by the investment product manufacturer before the products can be sold to retail investors. However, where a product is not sold to retail investors, there is no necessity to draw up a key information document, and where it is impractical for the investment product manufacturer to draw up the key information document, this may be delegated to others. In order to ensure widespread dissemination and availability of key information documents, this Regulation should allow for publication by the investment product manufacturer by means of a website of their choice.

Amendment

(9) Investment product manufacturers – such as fund managers, insurance undertakings, issuers of securities, credit institutions or investment firms – should draw up the key information document for the investment products they manufacture, as they are in the best position to know the product and are responsible for it. The document should be drawn up by the investment product manufacturer before the products can be sold to retail investors. However, where a product is not sold to retail investors, there is no necessity to draw up a key information document, and where it is impractical for the investment product manufacturer to draw up the key information document, this may be delegated to others. In order to ensure widespread dissemination and availability of key information documents, this Regulation should allow for publication by the investment product manufacturer by means of a website of their choice **and a central website to be created by the ECB and the relevant national supervisory authority.**

Or. de

Amendment 31
Mitro Repo

Proposal for a regulation
Recital 10

Text proposed by the Commission

(10) To meet the needs of retail investors, it is necessary to ensure that information on investment products is accurate, fair, clear and not misleading for those investors. This Regulation should therefore lay down common standards for the drafting of the key information document, in order to ensure that it is comprehensible for retail investors. Given the difficulties many retail investors have in understanding specialist financial terminology, particular attention should be paid to the vocabulary and style of writing used in the document. Rules should also be laid down on the language in which it should be drawn up. Furthermore, retail investors should be able to understand the key information document on its own without referring to other information.

Amendment

(10) To meet the needs of retail investors, it is necessary to ensure that information on investment products is accurate, fair, clear and not misleading for those investors. This Regulation should therefore lay down common standards for the drafting of the key information document, in order to ensure that it is comprehensible for retail investors. Given the difficulties many retail investors have in understanding specialist financial terminology, particular attention should be paid to the vocabulary and style of writing used in the document. Rules should also be laid down on the language in which it should be drawn up. Furthermore, retail investors should be able to understand the key information document on its own without referring to other information. ***The importance of the key information document should also be stressed to retail investors, so that regulation has an effect.***

Or. fi

Amendment 32
Sirpa Pietikäinen

Proposal for a regulation
Recital 10

Text proposed by the Commission

(10) To meet the needs of retail investors, it is necessary to ensure that information on investment products is accurate, fair, clear and not misleading for those investors. This Regulation should therefore lay down common standards for the drafting of the key information document, in order to

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ensure that it is comprehensible for retail investors. Given the difficulties many retail investors have in understanding specialist financial terminology, particular attention should be paid to the vocabulary and style of writing used in the document. Rules should also be laid down on the language in which it should be drawn up. Furthermore, retail investors should be able to understand the key information document on its own without referring to other information. ***However, this should not preclude the use of cross-references within the key information document to other documents where additional information can be found that might be of interest to some retail investors.***

Or. en

Amendment 33 **Mitro Repo**

Proposal for a regulation **Recital 12**

Text proposed by the Commission

(12) The key information document should be drawn up in a format which allows retail investors to compare different investment products, since consumer behaviours and capabilities are such that the format, presentation and content of information must be carefully calibrated to maximise understanding and use of information. The same order of items and headings for these items should be followed for each document. In addition, the details of the information to be included in the key information document for different products and the presentation of this information should be further harmonised through delegated acts that take into account existing and on-going research on consumer behaviour, including results from

Amendment

(12) The key information document should be drawn up in a format which allows retail investors, ***before taking an investment decision, genuinely*** to compare different investment products, since consumer behaviours and capabilities are such that the format, presentation and content of information must be carefully calibrated to maximise understanding and use of information. The same order of items and headings for these items should be followed for each document. In addition, the details of the information to be included in the key information document for different products and the presentation of this information should be further harmonised through delegated acts that take into account existing and on-going

testing the effectiveness of different ways of presenting information with consumers. In addition, some investment products give the retail investor a choice between multiple underlying investments. Those products should be taken into account when drawing up the format.

research on consumer behaviour, including results from testing the effectiveness of different ways of presenting information with consumers. In addition, some investment products give the retail investor a choice between multiple underlying investments. Those products should be taken into account when drawing up the format.

Or. fi

Amendment 34
Cristian Silviu Buşoi

Proposal for a regulation
Recital 16

Text proposed by the Commission

(16) Key information documents are the foundation for investment decisions by retail investors. For this reason, investment product manufacturers have an important responsibility towards retail investors in ensuring that they comply with the rules of this Regulation. It is therefore important to ensure that retail investors who relied on a key investor document for their investment decision have an effective right of redress. It should also be ensured that all retail investors across the Union have the same right to seek compensation for damages they may suffer due to failures on the part of investment product manufacturers in complying with the requirements set out in this Regulation. Therefore, rules regarding the liability of the investment product manufacturers should be harmonised. ***This Regulation should establish that the retail investor should be able to hold the product manufacturer liable for an infringement of this Regulation in case a loss is caused through the use of the key information document.***

Amendment

(16) Key information documents are the foundation for investment decisions by retail investors. For this reason, investment product manufacturers have an important responsibility towards retail investors in ensuring that they comply with the rules of this Regulation. It is therefore important to ensure that retail investors who relied on a key investor document for their investment decision have an effective right of redress. It should also be ensured that all retail investors across the Union have the same right to seek compensation for damages they may suffer due to failures on the part of investment product manufacturers in complying with the requirements set out in this Regulation, ***provided a causal link is established.*** Therefore, rules regarding the liability of the investment product manufacturers should be harmonised.

Amendment 35
Thomas Händel

Proposal for a regulation
Recital 17

Text proposed by the Commission

(17) As retail investors in general do not have close insight as to the internal procedures of investment product manufacturers, a reversal of the burden of proof should be established. The product manufacturer would have to prove that the key information document was drawn up in compliance with this Regulation. ***However, it would be for the retail investor to demonstrate that his loss has occurred due to the use of the information in the key information document because this matter falls within the direct personal sphere of the retail investor.***

Amendment

(17) As retail investors in general do not have close insight as to the internal procedures of investment product manufacturers, a reversal of the burden of proof should be established. The product manufacturer would have to prove that the key information document was drawn up in compliance with this Regulation.

Amendment 36
Thomas Händel

Proposal for a regulation
Recital 19

Text proposed by the Commission

(19) So that the retail investor is able to take an informed investment decision, persons selling investment products should be required to provide the key information document in good time before any transaction is concluded. This requirement should ***generally*** apply irrespective of where or how the transaction takes place. Persons selling include both distributors

Amendment

(19) So that the retail investor is able to take an informed investment decision, persons selling investment products should be required to provide the key information document in good time before any transaction is concluded. This requirement should apply irrespective of where or how the transaction takes place. Persons selling include both distributors and the

and the investment product manufacturer themselves where they choose to sell the product directly to retail investors. ***To ensure necessary flexibility and proportionality, retail investors who wish to conclude a transaction using a means of distance communication should be able to receive the key information document after the conclusion of the transaction. Even in this case the key information document would be useful for the investor, for instance to allow the investor to compare the product purchased with that described in the key information document.*** This Regulation is without prejudice to the Directive 2002/65/EC of the European Parliament and the Council.

investment product manufacturer themselves where they choose to sell the product directly to retail investors. This Regulation is without prejudice to the Directive 2002/65/EC of the European Parliament and the Council.

Or. de

Amendment 37
Sirpa Pietikäinen

Proposal for a regulation
Recital 19

Text proposed by the Commission

(19) So that the retail investor is able to take an informed investment decision, persons selling investment products should be required to provide the key information document in good time before any transaction is concluded. This requirement should generally apply irrespective of where or how the transaction takes place. Persons selling include both distributors and the investment product manufacturer themselves where they choose to sell the product directly to retail investors. To ensure necessary flexibility and proportionality, retail investors who wish to conclude a transaction using a means of distance communication should be able to receive the key information document after the conclusion of the transaction. Even in

Amendment

(19) So that the retail investor is able to take an informed investment decision, persons ***advising on or*** selling investment products should be required to provide the key information document in good time before any transaction is concluded. This requirement should generally apply irrespective of where or how the transaction takes place. Persons ***advising on or*** selling include both distributors and the investment product manufacturer themselves where they choose to ***advise or*** sell the product directly to retail investors. To ensure necessary flexibility and proportionality, retail investors who wish to conclude a transaction using a means of distance communication should be able to receive the key information document after

this case the key information document would be useful for the investor, for instance to allow the investor to compare the product purchased with that described in the key information document. This Regulation is without prejudice to the Directive 2002/65/EC of the European Parliament and the Council.

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Or. en

Amendment 38
Cristian Silviu Buşoi

Proposal for a regulation
Recital 19

Text proposed by the Commission

(19) So that the retail investor is able to take an informed investment decision, persons selling investment products should be required to provide the key information document in good time before any transaction is concluded. This requirement should generally apply irrespective of where or how the transaction takes place. Persons selling include both distributors and the investment product manufacturer themselves where they choose to sell the product directly to retail investors. To ensure necessary flexibility and proportionality, retail investors who wish to conclude a transaction using a means of distance communication should be able to receive the key information document after the conclusion of the transaction. ***Even in this case the key information document would be useful for the investor, for instance to allow the investor to compare the product purchased with that described in the key information document.*** This Regulation is without prejudice to the Directive 2002/65/EC of the European

Amendment

(19) So that the retail investor is able to take an informed investment decision, persons selling investment products should be required to provide the key information document in good time before any transaction is concluded. This requirement should generally apply irrespective of where or how the transaction takes place. Persons selling include both distributors and the investment product manufacturer themselves where they choose to sell the product directly to retail investors. To ensure necessary flexibility and proportionality, retail investors who wish to conclude a transaction using a means of distance communication should be able to receive the key information document after the conclusion of the transaction ***provided that the key information document has been provided on another durable medium before the conclusion of the transaction.*** This Regulation is without prejudice to the Directive 2002/65/EC of the European Parliament and the Council.

Amendment 39

Mitro Repo

Proposal for a regulation

Recital 21

Text proposed by the Commission

(21) To ensure the trust of retail investors in investment products, requirements should be established for appropriate internal procedures which ensure that retail investors receive a substantive response from the investment product manufacturer to complaints.

Amendment

(21) To ensure the trust of retail investors in investment products, requirements should be established for appropriate internal procedures which ensure that retail investors receive a substantive response from the investment product manufacturer to complaints, ***which should be given within a reasonable period of time and in writing. Replies should be forwarded to retail investors in the same language in which the complaint was written.***

Or. fi

Amendment 40

Pier Antonio Panzeri

Proposal for a regulation

Recital 22

Text proposed by the Commission

(22) Procedures for alternative dispute resolution allow for a quicker and less expensive settlement of disputes than the courts and lighten the burden on the court system. For that purpose ***investment product manufacturers and the persons selling investment products should be under an obligation to participate in those procedures initiated by*** retail investors ***concerning the rights and obligations***

Amendment

(22) Procedures for alternative dispute resolution allow for a quicker and less expensive settlement of disputes than the courts and lighten the burden on the court system. For that purpose ***Member States shall ensure the setting-up of appropriate, transparent, effective, impartial, independent, fast and fair redress procedures for alternative dispute resolution between*** investment product

established by this Regulation, subject to certain safeguards in conformity with the principle of effective judicial protection.

In particular, the procedures for alternative dispute resolution should not infringe the rights which the parties to such procedures have to bring legal proceedings before the courts.

manufacturer and seller and retail investors; This will ensure that where a retail investor initiates a procedure for alternative dispute resolution against investment product manufacturers and the persons selling investment products, with regard to a dispute concerning the key information document and the underlying investment products, the investment product manufacturers and the persons selling investment products should be required to participate in that procedure. In particular, the procedures for alternative dispute resolution should not infringe the rights which the parties to such procedures have to bring legal proceedings before the courts.

Or. en

Amendment 41
Pier Antonio Panzeri

Proposal for a regulation
Recital 22 a (new)

Text proposed by the Commission

Amendment

(22a) Retail investors should duly informed about the alternative dispute resolution entities by which they are covered and which are competent to deal with potential disputes between themselves and the retail investor.

Or. en

Amendment 42
Pier Antonio Panzeri

Proposal for a regulation
Recital 22 b (new)

Text proposed by the Commission

Amendment

(22b) Where existing several retail investors could make use of alternative dispute resolution collective claims and redress mechanism in order to properly enforce consumers protection and guarantee well functioning retail financial services market.

Or. en

Amendment 43

Thomas Händel

Proposal for a regulation

Recital 30

Text proposed by the Commission

Amendment

(30) In order to give investment product manufacturers and persons selling investment products sufficient time to prepare for the practical application of the requirements of this Regulation, the requirements of this Regulation should not become applicable until ***two years*** after the entry into force of this Regulation.

(30) In order to give investment product manufacturers and persons selling investment products sufficient time to prepare for the practical application of the requirements of this Regulation, the requirements of this Regulation should not become applicable until ***one year*** after the entry into force of this Regulation.

Or. de

Amendment 44

Thomas Händel

Proposal for a regulation

Article 2 – paragraph 2

Text proposed by the Commission

Amendment

However, it shall not apply to the following products:

deleted

(a) insurance products which do not offer a surrender value or where that surrender

value is not wholly or partially exposed, directly or indirectly, to market fluctuations;

(b) deposits with a rate of return that is determined in relation to an interest rate;

(c) securities referred to in points (b) to (g), (i) and (j) of Article 1(2) of Directive 2003/71/EC;

(d) other securities which do not embed a derivative;

(e) occupational pension schemes falling under the scope of Directive 2003/41/EC or Directive 2009/138/EC; and

(f) pension products for which a financial contribution from the employer is required by national law and where the employee has no choice as to the pension product provider.

Or. de

Amendment 45
Olle Schmidt

Proposal for a regulation
Article 2 – paragraph 2 – point f

Text proposed by the Commission

*(f) pension products for which **a** financial contribution from the employer is required by national law and where the employee has no choice as to the pension product provider.*

Amendment

*(f) pension products for which **the** financial arrangements do not fall under the scope of the Directive 2003/41/EC or under the Directive 2009/138/EC; and for which the level of retirement provision is in effect a promise or an offer by the employer to the employee. For pension products which do not fall under the Directive 2003/41/EC or the Directive 2009/138/EC or under this Regulation, Member States shall provide equivalent disclosure requirements.*

Or. en

Justification

In many Member States, there are different types of pension arrangements that are neither within the scope of IORP nor private. Some of these schemes would be exempted under the Commission's proposal by virtue of Article 2(f), so would be subject to no disclosure requirements at EU level, but other, similar schemes would not be exempted because the employer is not required by national law to make a financial contributions. It is important to avoid inconsistency across the European Union.

Amendment 46

Cristian Silviu Buşoi

Proposal for a regulation

Article 3 – paragraph 2

Text proposed by the Commission

Where investment product manufacturers subject to this Regulation are also subject to Directive 2009/138/EC, this Regulation and Directive 2009/138/EC shall both apply.

Amendment

Where investment product manufacturers subject to this Regulation are also subject to Directive 2009/138/EC, this Regulation and Directive 2009/138/EC shall both apply. ***Where the requirements of Directive 2009/138/EC and of this Regulation are equivalent, they shall be deemed to be met if the requirements of this Regulation are fulfilled.***

Or. en

Justification

Avoid duplication of information requirements.

Amendment 47

Thomas Händel

Proposal for a regulation

Article 4 – paragraph 1 – point a

Text proposed by the Commission

(a) 'investment product' means an investment where regardless of the legal form of the investment the amount

Amendment

(a) 'investment product' means an investment where regardless of the legal form of the investment the amount

repayable to the investor is exposed to fluctuations in reference values or in the performance of one or more assets **which are not directly purchased by the investor**;

repayable to the investor is exposed to fluctuations in reference values or in the performance of one or more assets;

Or. de

Amendment 48
Olle Schmidt

Proposal for a regulation
Article 4 – paragraph 1 – point c – point ii

Text proposed by the Commission

(ii) customers **within the meaning** of Directive 2002/92/EC;

Amendment

(ii) customers **who are not professional customers as defined in [relevant Articles of IMD] [...]**of Directive 2002/92/EC;

Or. en

Amendment 49
Thomas Händel

Proposal for a regulation
Article 5 – paragraph 1

Text proposed by the Commission

The investment product manufacturer shall draw up a key information document in accordance with the requirements laid down in this Regulation for each investment product it produces and shall publish the document on a website of its choice before the investment product can be sold to retail investors.

Amendment

The investment product manufacturer shall draw up a key information document in accordance with the requirements laid down in this Regulation **and the specimen contained in the annex** for each investment product it produces and shall publish the document on a website of its choice **and centrally on a website to be created by the ECB and the relevant national supervisory authority** before the investment product can be sold to retail investors.

Or. de

Amendment 50
Mitro Repo

Proposal for a regulation
Article 6 – paragraph 1

Text proposed by the Commission

1. The key information document shall be accurate, fair, clear and not misleading.

Amendment

1. The key information document shall be accurate, fair, clear and not misleading.
The document should make it possible to compare products before taking an investment decision

Or. fi

Amendment 51
Olle Schmidt

Proposal for a regulation
Article 6 – paragraph 1

Text proposed by the Commission

1. The key information document shall be accurate, fair, clear and not misleading.

Amendment

1. The key information document. ***The key information document shall constitute pre-contractual information. It*** shall be accurate, fair, clear and not misleading.

Or. en

Amendment 52
Sirpa Pietikäinen

Proposal for a regulation
Article 6 – paragraph 2

Text proposed by the Commission

2. The key information document shall be a stand-alone document, clearly separate from marketing materials.

Amendment

2. The key information document shall be a stand-alone document, clearly separate from marketing materials. ***Cross-***

references to other documents are permitted. Information that is cross-referenced shall only be information that is additional to the information required to be included in the key information document by this Regulation.

Or. en

Justification

The KID should work and be understandable as an independent document, but for retail investors wanting more information, this additional information should be made easy to find.

Amendment 53

Thomas Händel

Proposal for a regulation

Article 6 – paragraph 2

Text proposed by the Commission

2. The key information document shall be a stand-alone document, clearly separate from marketing materials.

Amendment

2. The key information document shall be a stand-alone document, clearly separate from marketing materials, ***and shall not contain any product advertisements.***

Or. de

Amendment 54

Sirpa Pietikäinen

Proposal for a regulation

Article 6 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The key information document shall not contain any marketing or recommendation to invest.

Or. en

Amendment 55
Thomas Händel

Proposal for a regulation
Article 6 – paragraph 3 – introductory part

Text proposed by the Commission

3. The key information document shall be drawn up as a short document which is:

Amendment

3. The key information document shall be drawn up as a short document *of a maximum of two DIN A4 pages* which is:

Or. de

Amendment 56
Olle Schmidt

Proposal for a regulation
Article 6 – paragraph 3 – introductory part

Text proposed by the Commission

3. The key information document shall be drawn up as a short document which is:

Amendment

3. The key information document shall be drawn up as a short document *and written in a short and concise manner* which is:

Or. en

Amendment 57
Sirpa Pietikäinen

Proposal for a regulation
Article 6 – paragraph 3 – introductory part

Text proposed by the Commission

3. The key information document shall be drawn up as a short document which is:

Amendment

3. The key information document shall be drawn up as a short document, *not exceeding 3 pages of A4-sized paper*, which is:

Or. en

Amendment 58
Thomas Händel

Proposal for a regulation
Article 6 – paragraph 3 – point b – point iii

Text proposed by the Commission

(iii) technical terms are avoided *when everyday words can be used instead.*

Amendment

(iii) technical terms are avoided.

Or. de

Amendment 59
Olle Schmidt

Proposal for a regulation
Article 6 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. The European Banking Authority (EBA), the European Insurance and Occupational Pensions Authority (EIOPA) and the European Securities and Markets Authority (ESMA) shall develop draft regulatory standards specifying the length and format of the key information document.

The draft regulatory technical standards shall take into account the different types of investment products. The European Supervisory Authorities shall submit those draft regulatory technical standards to the Commission by [...].

Or. en

Justification

In order to provide appropriate flexibility and to enable the industry and the ESAs to react swiftly to developments in the market place, such measures should take the form of empowering the three ESAs collectively to draw up joint regulatory technical standards

rather than the Commission being empowered to adopt delegated acts.

Amendment 60
Olle Schmidt

Proposal for a regulation
Article 6 – paragraph 5 b (new)

Text proposed by the Commission

Amendment

5b. Power is conferred on the Commission to adopt the regulatory technical standards in accordance with the procedure set out in Articles 10 to 14 of Regulation (EU) No 1093/2010, Articles 10 to 14 of Regulation 1094/2010 and Articles 10 to 14 of Regulation (EU) No 1095/2010.

Or. en

Amendment 61
Thomas Händel

Proposal for a regulation
Article 7 – paragraph 1

Text proposed by the Commission

Amendment

The key information document shall be written in the official language, or one of the official languages of the Member State where the investment product is sold, ***or in a language accepted by the competent authorities of that Member State***, or where it has been written in a different language, it shall be translated into one of these languages.

The key information document shall be written in the official language, or one of the official languages of the Member State where the investment product is sold, or where it has been written in a different language, it shall be translated into one of these languages.

Or. de

Amendment 62
Thomas Händel

Proposal for a regulation
Article 8 – paragraph 1

Text proposed by the Commission

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 of this investment product and the risks of investing in it. You are advised to read it so that you can take an informed decision about whether to invest.

Amendment

This document provides you with key information about this investment product **and the fee paid to your intermediary**. It is not marketing material. The information is required by law to help you understand the nature of this investment product and the risks of investing in it. You are advised to read it so that you can take an informed decision about whether to invest.

Or. de

Amendment 63
Cristian Silviu Buşoi

Proposal for a regulation
Article 8 – paragraph 1

Text proposed by the Commission

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 of this investment product and the risks of investing in it. You are advised to read it so that you **can** take an informed decision about whether to invest.

Amendment

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 of this investment product and the risks **and opportunities** of investing in **it, as well as the costs associated to** it. You are advised to read it so that you **are in a better position to compare different investment products. This document does not represent a purchasing recommendation. You may need to consult other complementary documents in order to take an informed decision about whether to invest.**

Or. en

Justification

It should be made clear that the KID is not a substitute for a thorough analysis of the investment product and that an informed decision may require the consultation of additional more detailed information documents.

Amendment 64
Sirpa Pietikäinen

Proposal for a regulation
Article 8 – paragraph 1

Text proposed by the Commission

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 of this investment product and the risks of investing in it. You are advised to read it ***so that you can*** take an informed decision about whether to invest.

Amendment

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 of this investment product and the risks ***and costs*** of investing in it. You are advised to read it ***to help you*** take an informed decision about whether to invest.

Or. en

Amendment 65
Heide Rühle

Proposal for a regulation
Article 8 – paragraph 2 – point b – point iv a (new)

Text proposed by the Commission

Amendment

(iva) A provision that the manufacturer shall transparently inform the customer through a yearly document about the performance of the investment product. This document shall contain an ex-post disclosure of the investment product's performance in the past year. Furthermore, this ex-post performance shall be compared to a different investment product with a comparable

risk profile. If the customer owns several investment products of a certain manufacturer and covered by this regulation, the aforementioned disclosure and comparison shall be applied to the whole portfolio. Any fees affecting the yield of the investment product shall also be disclosed.

Or. en

Justification

This amendment aims at providing transparency on the performance of investment products covered by this regulation. Therefore, the performance of a certain product and the portfolio if applicable should be compared to a different product with comparable risks. Moreover, all fees affecting the yield should be revealed.

Amendment 66
Thomas Händel

Proposal for a regulation
Article 8 – paragraph 2 – point b – point vi a (new)

Text proposed by the Commission

Amendment

(via) and the possibility of cancelling the investment product.

Or. de

Amendment 67
Cristian Silviu Buşoi

Proposal for a regulation
Article 8 – paragraph 2 – point c

Text proposed by the Commission

Amendment

(c) under a section titled ‘Could I lose money?’, a brief indication of whether loss of capital is possible, including
i) any guarantees or capital protection

deleted

provided, as well as any limitations to these;

ii) whether the investment product is covered by a compensation or guarantee scheme;

Or. en

Justification

Section moved further down the text to ensure coherence.

Amendment 68
Thomas Händel

Proposal for a regulation
Article 8 – paragraph 2 – point c – point ii

Text proposed by the Commission

(ii) whether the investment product is covered by a compensation or guarantee scheme;

Amendment

(ii) whether the investment product is covered by a compensation or guarantee scheme, *and if so, which scheme;*

Or. de

Amendment 69
Cristian Silviu Buşoi

Proposal for a regulation
Article 8 – paragraph 2 – point d a (new)

Text proposed by the Commission

Amendment

(da) under a section titled 'Could I lose money?', a brief indication of whether loss of capital is possible, including

(i) any guarantees or capital protection provided, as well as any limitations to these;

(ii) whether the investment product is covered by a compensation or guarantee

scheme;

Or. en

Justification

Text corresponding to the deletion of point c) for coherence reasons. The information about the risk should be in the same place.

Amendment 70
Thomas Händel

Proposal for a regulation
Article 8 – paragraph 2 – point e

Text proposed by the Commission

(e) under a section titled "What are the risks and what might I get back?", the risk and reward profile of the investment product, including a summary indicator of this profile and warnings in relation to any specific risks that may not be fully reflected in the summary indicator;

Amendment

(e) under a section titled "What are the risks and what might I get back?", the risk and reward profile of the investment product, including a summary indicator of this profile and warnings in relation to any specific risks that may not be fully reflected in the summary indicator; ***the description of the risks should be clear and easy to understand;***

Or. de

Amendment 71
Sirpa Pietikäinen

Proposal for a regulation
Article 8 – paragraph 2 – point e

Text proposed by the Commission

(e) under a section titled 'What are the risks and what might I get back?', ***the risk and reward profile of the investment product, including a summary indicator of this profile and warnings in relation to any specific risks that may not be fully***

Amendment

(e) under a section titled 'What are the risks and what might I get back?'

reflected in the summary indicator;

(i) the risk and reward profile of the investment product, including a summary indicator of this profile that also reflects the impact of costs and that is expressed as indicative future performance scenarios, accompanied by an explanation in plain language of the key risks of the product;

(ii) a comparison of the likely future performance of the investment product, including risks to it, with that of a risk free benchmark;

Or. en

Amendment 72
Thomas Händel

Proposal for a regulation
Article 8 – paragraph 2 – point f

Text proposed by the Commission

(f) under a section titled "What are the costs?", the costs associated with an investment in the investment product, comprising both direct and indirect costs to be borne by the investor, including summary indicators of these costs;

Amendment

(f) under a section titled "What are the costs?", the costs associated with an investment in the investment product, comprising both direct and indirect costs to be borne by the investor, including summary indicators of these costs, **and the impact of these costs on the return;**

Or. de

Amendment 73
Olle Schmidt

Proposal for a regulation
Article 8 – paragraph 2 – point f

Text proposed by the Commission

(f) under a section titled ‘What are the

Amendment

(f) under a section titled ‘What are the

costs?', the costs associated with an investment in the investment product, comprising both direct and indirect costs to be borne by the investor, including summary indicators of these costs;

costs?', the costs associated with an investment in the investment product, comprising both direct and indirect costs to be borne by the investor, including summary indicators of these costs **and, for comparability reasons, total costs expressed in monetary and percentage terms, to show the effects of the total costs on the investment;**

Or. en

Justification

The costs related to an investment product can have a severe effect on the return of the investment product. Consumers often find it difficult to assess the effect of the costs when costs are framed as percentages. An example showing the effect of total costs on the investment in monetary terms will improve comparability, transparency and customer awareness. The total costs should be expressed in monetary terms, to show the effects of the total costs on the investment.

Amendment 74 Sirpa Pietikäinen

Proposal for a regulation Article 8 – paragraph 2 – point f

Text proposed by the Commission

(f) under a section titled 'What are the costs?', the costs associated with an investment in the investment product, comprising both direct and indirect costs to be borne by the investor, including summary *indicators* of these costs;

Amendment

(f) under a section titled "What are the costs?", the costs associated with an investment in the investment product, comprising both direct and indirect costs to be borne by the investor, including **a** summary *indicator* of these costs **in monetary terms, and a statement that the retail investor should ask the person selling the investment product for further information about the costs, including any additional costs charged by the person selling not shown in the key information document;**

Or. en

Amendment 75
Cristian Silviu Buşoi

Proposal for a regulation
Article 8 – paragraph 2 – point f

Text proposed by the Commission

(f) under a section titled ‘What are the costs?’, the costs associated with an investment in the investment product, comprising both direct and indirect costs to be borne by the investor, including summary indicators of these costs;

Amendment

(f) under a section titled ‘What are the costs?’, the costs associated with an investment in the investment product, comprising both direct and indirect costs to be borne by the investor, including summary indicators of these costs, ***together with an indication about the payment terms in relation to those costs;***

Or. en

Justification

The investor should know when the fees are due.

Amendment 76
Mitro Repo

Proposal for a regulation
Article 8 – paragraph 2 – point f

Text proposed by the Commission

(f) under a section titled "What are the costs?", the costs associated with an investment in the investment product, comprising both direct and indirect costs to be borne by the investor, including summary indicators of these costs;

Amendment

(f) under a section titled "What are the costs?", the costs associated with an investment in the investment product, comprising both direct and indirect costs to be borne by the investor, including summary indicators of these costs ***and taxes and any fees to be paid by the retail investor;***

Or. fi

Amendment 77
Cristian Silviu Buşoi

Proposal for a regulation
Article 8 – paragraph 2 – point f a (new)

Text proposed by the Commission

Amendment

(fa) under a section titled "Do I have to pay taxes?", indications about the fiscal regime applicable to the investment product, where applicable;

Or. en

Justification

Retail investors should be aware of the applicable fiscal regime since taxes impact on the gain that the investor draws from the investment made.

Amendment 78
Cristian Silviu Buşoi

Proposal for a regulation
Article 8 – paragraph 2 – point f b (new)

Text proposed by the Commission

Amendment

(fb) under a section titled "What are the conditions to purchase this product?", any conditions or restrictions to the purchase of the investment product, including any minimum initial and/or subsequent investment required;

Or. en

Justification

Retail investors should be properly informed of any conditions associated with the purchase of an investment product, such as minimum investment required (initial and subsequent).

Amendment 79
Thomas Hädel

Proposal for a regulation
Article 8 – paragraph 2 – point g

Text proposed by the Commission

(g) under a section titled "How has it done in the past?", the past performance of the investment product, ***if this is relevant having regard to the nature of the product and the length of its track record;***

Amendment

(g) under a section titled "How has it done in the past?", the past performance of the investment product;

Or. de

Amendment 80
Sirpa Pietikäinen

Proposal for a regulation
Article 8 – paragraph 2 – point g

Text proposed by the Commission

(g) under a section titled ‘How has it done in the past?’, the past performance of the investment product, if this is relevant having regard to the nature of the product and the length of its track record;

Amendment

(g) under a section titled ‘How has it done in the past?’, the past performance of the investment product, if this is relevant having regard to the nature of the product and the length of its track record, ***including a clear warning that past performance does not guarantee future investment outcomes;***

Or. en

Amendment 81
Cristian Silviu Buşoi

Proposal for a regulation
Article 8 – paragraph 2 – point g

Text proposed by the Commission

(g) under a section titled ‘How has it done

Amendment

(g) under a section titled ‘How has it done

in the past?', the past performance of the investment product, if this is relevant having regard to the nature of the product and the length of its track record;

in the past?', the past performance of the investment product, if this is relevant having regard to the nature of the product and the length of its track record, ***complemented by a warning that past returns do not guarantee future performance; where the investment product is linked to a benchmark, the performance of the latter shall also be published in such a way to enable comparison between the performance of the investment product and that of the benchmark;***

Or. en

Justification

Investors have to be warned that past performance doesn't guarantee similar outcomes in the future so that the decision is not exclusively based on the past performance. Where the product is linked to a benchmark, it should be possible to compare the performance of the product and the benchmark, so that the investor has a clearer view of the performance of the product in question.

Amendment 82 Thomas Händel

Proposal for a regulation Article 8 – paragraph 2 – point h

Text proposed by the Commission

(h) for pension products, under a section titled "What might I get when I retire?", projections of possible future outcomes.

Amendment

(h) for pension products, under a section titled "What might I get when I retire?", projections of possible future outcomes, ***clearly subdivided into various development scenarios, including the worst-case scenario.***

Or. de

Amendment 83 Mitro Repo

Proposal for a regulation
Article 8 – paragraph 2 – point h

Text proposed by the Commission

(h) for pension products, under a section titled "What might I get when I retire?", projections of possible future outcomes.

Amendment

(h) for pension products, under a section titled "What might I get when I retire?", projections of possible future outcomes.
With regard to pension products, retail investors should in addition be informed unambiguously, clearly and comprehensibly about any limits to the withdrawal of funds.

Or. fi

Amendment 84
Thomas Händel

Proposal for a regulation
Article 8 – paragraph 2 – point h a (new)

Text proposed by the Commission

Amendment

(ha) under a section titled "What fee does my intermediary receive for services rendered?", an overview of the type and amount of fees paid or due to be paid to the intermediary;

Or. de

Amendment 85
Sirpa Pietikäinen

Proposal for a regulation
Article 8 – paragraph 2 – point h a (new)

Text proposed by the Commission

Amendment

(ha) under a section titled "How can I complain?", information about how a client can launch a complaint about the product.

Amendment 86
Thomas Händel

Proposal for a regulation
Article 8 – paragraph 3

Text proposed by the Commission

Amendment

3. The investment product manufacturer may only include other information where it is necessary for the retail investor to take an informed investment decision about a specific investment product. *deleted*

Or. de

Amendment 87
Olle Schmidt

Proposal for a regulation
Article 8 – paragraph 3

Text proposed by the Commission

Amendment

3. The investment product manufacturer may only include other information where it is necessary for the retail investor to take an informed investment decision about a specific investment product.

3. The investment product manufacturer may only include other **objective** information where it is necessary for the retail investor to take an informed investment decision about a specific investment product.

Or. en

Justification

The regulation on delegated acts in article 8.5 can create problems in terms of compatibility with the some Member States constitutional laws. The concern is regarding article 8.3, where “other information” may be included. Since the possibility of including “other information” exists, this is associated with a risk that information which can trigger investment decisions will be regulated in delegated acts.

Amendment 88
Thomas Händel

Proposal for a regulation
Article 8 – paragraph 4

Text proposed by the Commission

4. The information referred to in paragraph 2 shall be presented in a common format including the common headings and following the standardised order set out in paragraph 2, so as to allow for comparison with the key information document for any other investment product. The key information document shall prominently display a common symbol to distinguish the document from other documents.

Amendment

4. The information referred to in paragraph 2 shall be presented in a common format including the common headings and following the standardised order set out in paragraph 2, so as to allow for comparison with the key information document for any other investment product. The key information document shall prominently display a common symbol to distinguish the document from other documents; ***as a matter of principle, any negative information shall be presented in complete sentences before any positive information; price lists and conceptual abbreviations shall be prohibited.***

Or. de

Amendment 89
Thomas Händel

Proposal for a regulation
Article 8 – paragraph 5

Text proposed by the Commission

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 23 specifying the details of the presentation and the content of each of the elements of information referred to in paragraph 2, the presentation and details of the other information the product manufacturer may include within the key information document as referred to in paragraph 3, and the details of the common format and the common symbol referred to in paragraph 4. The Commission shall take

Amendment

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 23 specifying the details of the presentation and the content of each of the elements of information referred to in paragraph 2, the presentation and details of the other information the product manufacturer may include within the key information document as referred to in paragraph 3, and the details of the common format and the common symbol referred to in paragraph 4. The Commission shall take

into account the differences between investment products and the capabilities of retail investors as well as the features of investment products that allow the retail investor to select between different underlying investments or other options provided for by the product, including where this selection can be undertaken at different points in time, or changed in the future.

into account the differences between investment products and the capabilities of retail investors as well as the features of investment products that allow the retail investor to select between different underlying investments or other options provided for by the product, including where this selection can be undertaken at different points in time, or changed in the future. ***The Commission shall further propose a traffic-light system that will make it easier to classify and categorise investment products as extremely risky, risky and less risky.***

Or. de

Amendment 90
Sirpa Pietikäinen

Proposal for a regulation
Article 8 – paragraph 5

Text proposed by the Commission

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 23 specifying the details of the presentation and the content of each of the elements of information referred to in paragraph 2, the presentation and details of the other information the product manufacturer may include within the key information document as referred to in paragraph 3, and the details of the common format and the common symbol referred to in paragraph 4. The Commission shall take into account the differences between investment products and the capabilities of retail investors as well as the features of investment products that allow the retail investor to select between different underlying investments or other options provided for by the product, including where this selection can be undertaken at different points in time, or changed in the

Amendment

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 23 specifying the details of the presentation and the content of each of the elements of information referred to in paragraph 2, the presentation and details of the other information the product manufacturer may include within the key information document as referred to in paragraph 3, and the details of the common format and the common symbol referred to in paragraph 4. ***The summary indicator of the risks and rewards referred to in paragraph 2 (e) i shall take into account the impact of costs over time and shall take into account possible future performance. It shall be designed to make the risks the investors are taking on clear and comparable between products. The indicator shall make it clear that the potential for greater rewards is linked to***

future.

taking greater risks. The comparison referred to in paragraph 2 point (e) ii shall be designed to help the investor to understand how taking greater risk impacts the rewards of the investment product, and the risk-free benchmark shall be set in way that is comprehensible for retail investors and not misleading to them. The summary indicator of the costs referred to in paragraph 2 (f) shall illustrate in monetary terms the impact of the costs on what the investor might get back from their investment over time. It shall include figures that can be used by retail investors to compare between products. The Commission shall take into account disclosures to retail investors made by the person selling the investment product related to costs under [MiFID] and [IMD], to ensure that there is consistency in information on costs in the key information document with these other disclosures, and that the information is comprehensive about costs and clearly shows to the retail investor the overall impact that costs may have. The Commission shall take into account the differences between investment products and the capabilities of retail investors as well as the features of investment products that allow the retail investor to select between different underlying investments or other options provided for by the product, including where this selection can be undertaken at different points in time, or changed in the future.

Or. en

Amendment 91
Olle Schmidt

Proposal for a regulation
Article 8 – paragraph 5

Text proposed by the Commission

5. The Commission shall be empowered to adopt **delegated acts** in accordance with Article 23 specifying the details of the presentation and the content of each of the elements of information referred to in paragraph 2, the presentation and details of the other information the product manufacturer may include within the key information document as referred to in paragraph 3, and the details of the common format and the common symbol referred to in paragraph 4. The Commission shall take into account the differences between investment products and the capabilities of retail investors as well as the features of investment products that allow the retail investor to select between different underlying investments or other options provided for by the product, including where this selection can be undertaken at different points in time, or changed in the future.

Amendment

5. The Commission shall be empowered to adopt **technical standards** in accordance with Article 23 specifying the details of the presentation and the content of each of the elements of information referred to in paragraph 2, the presentation and details of the other **objective** information the product manufacturer may include within the key information document as referred to in paragraph 3, and the details of the common format and the common symbol referred to in paragraph 4. The Commission shall take into account the differences between investment products and the capabilities of retail investors as well as the features of investment products that allow the retail investor to select between different underlying investments or other options provided for by the product, including where this selection can be undertaken at different points in time, or changed in the future.

Or. en

Justification

The regulation on delegated acts in article 8.5 can create problems in terms of compatibility with some Member States constitutional laws. The Commission should be empowered to adopt delegated acts regarding "other objective information". In order to enable the industry and the ESAs to react swiftly to developments in the market place, the three ESAs should collectively draw up joint regulatory technical standards rather than the Commission being empowered to adopt delegated acts.

Amendment 92
Olle Schmidt

Proposal for a regulation
Article 10 – paragraph 2 – introductory part

Text proposed by the Commission

2. The Commission shall be empowered to adopt **delegated acts** in accordance with Article 23 laying down detailed rules for the review of the information contained in the key information document and the revision of the key information document, as regards:

Amendment

2. The Commission shall be empowered to adopt **technical standards** in accordance with Article 23 laying down detailed rules for the review of the information contained in the key information document and the revision of the key information document, as regards:

Or. en

Justification

In order to provide appropriate flexibility and to enable the industry and the ESAs to react swiftly to developments in the market place, the three ESAs should collectively draw up joint regulatory technical standards rather than the Commission being empowered to adopt delegated acts.

Amendment 93
Thomas Händel

Proposal for a regulation
Article 11 – paragraph 1

Text proposed by the Commission

1. Where an investment product manufacturer has produced a key information document which does not comply with the requirements of Articles 6, 7 and 8 on which a retail investor has relied when making an investment decision, such a retail investor may claim from the investment product manufacturer damages for any loss caused to that retail investor through the use of the key information document.

Amendment

1. Where an investment product manufacturer has produced a key information document which does not comply with the requirements of Articles 6, 7 and 8 on which a retail investor has relied when making an investment decision, such a retail investor may claim from the investment product manufacturer damages for any loss caused to that retail investor through the use of the key information document **and may, where appropriate, return the investment product and have the purchase price refunded.**

Or. de

Amendment 94
Cristian Silviu Buşoi

Proposal for a regulation
Article 11 – paragraph 1

Text proposed by the Commission

1. ***Where an investment product manufacturer has produced a key information document which does not comply with the requirements of Articles 6, 7 and 8 on which a retail investor has relied when making an investment decision, such a retail investor may claim from the investment product manufacturer damages for any loss caused to that retail investor through the use of the key information document.***

Amendment

1. ***A retail investor who has relied when making an investment decision on a key information document which does not comply with the requirements in Articles 6, 7 and 8 may claim from the investment product manufacturer damages for any financial loss caused by the investment product manufacturer's failure to comply with those requirements.***

Or. en

Justification

Rewording for clarification purposes. There has to be a direct link between the loss and the failure to comply with the requirements in Articles 6, 7 and 8.

Amendment 95
Olle Schmidt

Proposal for a regulation
Article 11 – paragraph 1

Text proposed by the Commission

1. ***Where an investment product manufacturer has produced a key information document which does not comply with the requirements of Articles 6, 7 and 8 on which a retail investor has relied when making an investment decision, such a retail investor may claim from the investment product manufacturer damages for any loss caused to that retail investor through the***

Amendment

1. ***Key investor information shall constitute pre-contractual information. It shall be fair, clear and not misleading. It shall be consistent with the relevant parts of the prospectus. Where binding contractual documents exist, the key information document shall be consistent with those documents.***

use of the key information document.

Or. en

Justification

Align with the KIID standards for UCITS Directive 2009/65/EC. The regulation of the burden of proof should correspond with the regulation of burden of proof in article 79.2 in the UCITS 4 Directive. A thorough consequence analysis of having a particular burden of proof should be made, also reflecting the potential effects on the costs for the retail investor.

Amendment 96
Olle Schmidt

Proposal for a regulation
Article 11 – paragraph 2

Text proposed by the Commission

Amendment

2. When a retail investor demonstrates a loss resulting from the use of the information contained in the key information document, the investment product manufacturer has to prove that the key information document has been drawn up in compliance with Articles 6, 7 and 8 of this Regulation.

2. Member States shall ensure that a person does not incur civil liability solely on the basis of the key information document, including any translation thereof, unless it is misleading, inaccurate or inconsistent with other binding contractual documents, deemed under the product manufacturers [his or hers] control. Key information document shall contain a clear warning in this respect.

Or. en

Justification

Align with the KIID standards for UCITS Directive 2009/65/EC. The civil liability in the regulation should be aligned with Article 79.2 in the UCITS 4 Directive. The writing should be, to the extent possible, fully harmonized with some adjustments with Article 79.2.

Amendment 97
Thomas Händel

Proposal for a regulation
Article 11 – paragraph 2

Text proposed by the Commission

2. **When** a retail investor **demonstrates a loss resulting from the use of the information contained in** the key information document, the investment product manufacturer **has to** prove that the key information document has been drawn up in compliance with Articles 6, 7 and 8 of this Regulation.

Amendment

2. **Where** a retail investor **has used** the key information document **and has suffered a loss**, the investment product manufacturer **shall** prove that the key information document has been drawn up in compliance with Articles 6, 7 and 8 of this Regulation.

Or. de

Amendment 98
Toine Manders

Proposal for a regulation
Article 11 – paragraph 2

Text proposed by the Commission

2. When a retail investor demonstrates a loss resulting from the use of the information contained in the key information document, **the investment product manufacturer** has to prove that the key information document has been drawn up in compliance with Articles 6, 7 and 8 of this Regulation.

Amendment

2. When a retail investor demonstrates a loss resulting from the use of the information contained in the key information document, **the retail investor** has to prove that the key information has been drawn up in compliance with Articles 6, 7 and 8 of this Regulation.

Or. en

Amendment 99
Pier Antonio Panzeri

Proposal for a regulation
Article 11 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Member States shall ensure a

mechanism of civil liability on the basis of the key investor information, including any translation thereof, when it is misleading, inaccurate or inconsistent with the features of the underlying investment product. Key investor information shall contain a clear warning in this respect.

Or. en

Amendment 100
Thomas Händel

Proposal for a regulation
Article 12 – paragraph 1

Text proposed by the Commission

1. A person selling an investment product to retail investors shall provide them with the key information document in good time before the conclusion of a transaction relating to the investment product.

Amendment

1. A person selling an investment product to retail investors shall provide them with the key information document in good time before the conclusion of a transaction relating to the investment product ***and shall keep a record thereof, whereby the burden of proof shall rest with the investment product manufacturer.***

Or. de

Amendment 101
Sirpa Pietikäinen

Proposal for a regulation
Article 12 – paragraph 1

Text proposed by the Commission

1. A person selling an investment product to retail investors shall provide them with the key information document in good time before the conclusion of a transaction relating to the investment product.

Amendment

1. A person ***advising on or*** selling an investment product to retail investors shall provide them with the key information document in good time before the conclusion of a transaction relating to the investment product.

Amendment 102
Thomas Händel

Proposal for a regulation
Article 12 – paragraph 2

Text proposed by the Commission

Amendment

2. By way of derogation from paragraph 1, a person selling an investment product may provide the retail investor with the key information document immediately after the conclusion of the transaction where: *deleted*

(a) the retail investor chooses to conclude the transaction using a means of distance communication where:

(b) the provision of the key information document in accordance with paragraph 1 is not possible, and

(c) where the person selling the investment product has informed the retail investor of this fact.

Amendment 103
Cristian Silviu Buşoi

Proposal for a regulation
Article 12 – paragraph 2

Text proposed by the Commission

Amendment

2. By way of derogation from paragraph 1, a person selling an investment product may provide the retail investor with the key information document immediately after the conclusion of the transaction where: *deleted*

(a) the retail investor chooses to conclude the transaction using a means of distance communication where:

(b) the provision of the key information document in accordance with paragraph 1 is not possible, and

(c) where the person selling the investment product has informed the retail investor of this fact.

Or. en

Justification

Retail investors should be informed irrespective of the means of communication used for the conclusion of the transaction. After the transaction the KID is deprived of its utility since the choice is already made.

Amendment 104
Cristian Silviu Buşoi

Proposal for a regulation
Article 12 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. By way of derogation from paragraph 1 and where the retail investor uses means of distance communication to conclude the transaction, the person selling an investment product may provide the retail investor with the key information document immediately after the conclusion of the transaction where:

(i) the retail investor has requested the key information document on paper, and

(ii) the key information document has been provided to the retail investor on another durable medium as referred to in Article 13 paragraph 2 point b) before the conclusion of the transaction.

Or. en

Justification

There is a need to ensure flexibility to facilitate the conclusion of transactions at the moment chosen by the retail investor. The means of communication used should not result in the investor losing the momentum for an investment. If the retail investor wishes to have the KID on paper, this should not prevent him to conclude the transaction as long as the KID is provided through other electronic means before the transaction is concluded.

Amendment 105
Cristian Silviu Buşoi

Proposal for a regulation
Article 12 – paragraph 4 – introductory part

Text proposed by the Commission

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 23 specifying:

Amendment

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 23 specifying ***the conditions for fulfilling the requirement to provide the key information document in good time as laid down in paragraph 1.***

Or. en

Justification

Restructuring of the text following the deletion of paragraph 2 and point b) in this paragraph.

Amendment 106
Olle Schmidt

Proposal for a regulation
Article 12 – paragraph 4 – introductory part

Text proposed by the Commission

4. The ***Commission shall be empowered to adopt delegated acts*** in accordance with Article 23 specifying:

Amendment

4. The ***European Banking Authority (EBA), the European Insurance and Occupational Pensions Authority (EIOPA) and the European Securities and Markets Authority (ESMA) shall jointly develop technical standards*** in

Justification

Restructuring of the text following the deletion of paragraph 2 and point b) in this paragraph.

Amendment 109
Olle Schmidt

Proposal for a regulation
Article 12 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Power is conferred on the Commission to adopt regulatory technical standards in accordance with the procedure set out in Articles 10 to 14 of Regulation (EU) No 1093/2010, Articles 10 to 14 of Regulation (EU) No 1094/2010, Articles 10 to 14 of Regulation (EU) No 1095/2010.

Or. en

Amendment 110
Sirpa Pietikäinen

Proposal for a regulation
Article 13 – paragraph 1

Text proposed by the Commission

Amendment

1. The person selling an investment product shall provide the key information document to retail investors free of charge.

1. The person ***advising on or*** selling an investment product shall provide the key information document to retail investors free of charge.

Or. en

Amendment 111
Thomas Händel

Proposal for a regulation
Article 13 – paragraph 2 – introductory part

Text proposed by the Commission

2. The person selling an investment product shall provide the key information document to the retail investor in one of the following media:

Amendment

2. The person selling an investment product shall provide the key information document to the retail investor in one of the following media ***that are accessible for the retail investor concerned***:

Or. de

Amendment 112
Sirpa Pietikäinen

Proposal for a regulation
Article 13 – paragraph 2 – introductory part

Text proposed by the Commission

2. The person selling an investment product shall provide the key information document to the retail investor in one of the following media:

Amendment

2. The person ***advising on or*** selling an investment product shall provide the key information document to the retail investor in one of the following media:

Or. en

Amendment 113
Toine Manders

Proposal for a regulation
Article 13 – paragraph 3

Text proposed by the Commission

3. However, where the key information document is provided using a durable medium other than paper or by means of a website, a paper copy shall be provided to retail investors upon request and free of charge.

Amendment

deleted

Or. en

Amendment 114
Pier Antonio Panzeri

Proposal for a regulation
Article 14 – paragraph 1

Text proposed by the Commission

The investment product manufacturer shall establish appropriate procedures and arrangements which ensure that retail investors who have submitted a complaint in relation to the key information document receive a substantive reply in a timely and proper manner.

Amendment

The investment product manufacturer **and seller** shall establish appropriate procedures and arrangements which ensure that retail investors who have submitted a complaint in relation to the key information document **and the underlying investment products** receive a substantive reply in a timely and proper manner.

Or. en

Amendment 115
Sirpa Pietikäinen

Proposal for a regulation
Article 14 – paragraph 1

Text proposed by the Commission

The investment product manufacturer shall establish appropriate procedures and arrangements which ensure that retail investors who have submitted a complaint in relation to the key information document receive a substantive reply in a timely and proper manner.

Amendment

The investment product manufacturer **and the distributor** shall establish appropriate procedures and arrangements which ensure that: **(i) retail investors have an effective way of submitting a complaint against the investment product manufacturer; (ii) retail investors** who have submitted a complaint in relation to the key information document receive a substantive reply in a timely and proper manner; **and (iii) effective redress procedures are also available to retail investors in the event of cross-border disputes, in particular where the investment product manufacturer is located in another Member State or in a third country.**

Amendment 116
Cristian Silviu Buşoi

Proposal for a regulation
Article 14 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

The investment product manufacturer and/or the person selling investment products shall inform retail investors of any procedures for alternative dispute resolution available to them in accordance with Directive .../2013 [please insert number] of the European Parliament and the Council on alternative dispute resolution for consumer disputes.

Or. en

Justification

Retail investors should be informed about the redress mechanisms available to them in order to enable them to use them.

Amendment 117
Olle Schmidt

Proposal for a regulation
Article 15

Text proposed by the Commission

Amendment

Article 15

deleted

1. Where a retail investor initiates a procedure for alternative dispute resolution laid down in national law against an investment product manufacturer or a person selling investment products with regard to a dispute concerning rights and obligations

established under this Regulation, the investment product manufacturer or the person selling investment products shall participate in that procedure, provided that it fulfils the following requirements:

- (a) the procedure results in decisions which are not binding;*
- (b) the limitation period for bringing the dispute before a court is suspended for the duration of the procedure for alternative dispute resolution;*
- (c) the period of prescription of the claim is suspended for the duration of the procedure;*
- (d) the procedure is free of charge or at moderate cost, as specified in national legislation;*
- (e) electronic means are not the only means by which the parties can gain access to the procedure;*
- (f) interim measures are possible in exceptional cases where the urgency of the situation so requires.*

2. Member States shall notify the Commission of the entities with competence to deal with the procedures referred to in paragraph 1 by [insert concrete date 6 months after entry into force/application of this Regulation]. They shall notify the Commission without delay of any subsequent change concerning those entities.

3. Entities with competence to deal with the procedures referred to in paragraph 1 shall cooperate with each other on the resolution of cross-border disputes arising under this Regulation.

Or. en

Justification

The alternative dispute procedure should not be separately regulated within this proposal. If

the alternative dispute procedure will be maintained in this proposal I suggest to have a reference to the ADR Directive (COM [2011] 793 final), or at least it should be monitored that the outcome of the alternative dispute procedure in the proposal is consistent with the outcome of the ongoing negotiations in the ADR Directive.

Amendment 118
Pier Antonio Panzeri

Proposal for a regulation
Article 15 a (new)

Text proposed by the Commission

Amendment

Article 15a

Collective alternative disputes resolutions
Member States can maintain or introduce alternative disputes resolution procedures dealing jointly with identical or similar disputes between a manufacturer and a person selling investment products and several retail investors. Alternative disputes resolutions systems for both individual and collective claims and redress are complementary and not mutually exclusive procedures.

Or. en

Amendment 119
Pier Antonio Panzeri

Proposal for a regulation
Article 15 b (new)

Text proposed by the Commission

Amendment

Article 15b

Information about alternative dispute resolutions
1. Member States shall ensure that investment product manufacturer or a person selling investment product inform the retail investor about the alternative

dispute resolution entities by which they are covered and which are competent to deal with potential disputes between themselves and the retail investor. They shall also specify whether or not they commit or are obliged to use these entities to resolve disputes with retail investors.

2. The information referred to in paragraph 1 shall be mentioned in a clear, comprehensible and easily accessible way on the traders' website, where one exists, and if applicable in the general terms and conditions of sales or service contracts between the trader and a consumer.

3. Member States shall ensure that, in cases where a dispute between a retail investor and a investment product manufacturer or a person selling investment product in their territory could not be settled further to a complaint submitted directly by the retail investor to the investment product manufacturer or a person selling investment product, the latter provide to the retail investor information referred to in paragraph 1, specifying whether he will make use of the relevant alternative dispute resolution entities to settle the dispute. This information shall be provided on paper or another durable medium.

Or. en

Amendment 120
Olle Schmidt

Proposal for a regulation
Article 15 – paragraph 1 – introductory part

Text proposed by the Commission

1. Where a retail investor initiates a procedure for alternative dispute resolution laid down in national law against an

Amendment

1. **Member States shall ensure that** where a retail investor initiates a procedure for alternative dispute resolution laid down in

investment product manufacturer or a person selling investment products with regard to a dispute concerning rights and obligations established under this Regulation, the investment product manufacturer or the person selling investment products shall participate in that procedure, provided that it fulfils the following requirements:

national law against an investment product manufacturer or a person selling investment products with regard to a dispute concerning rights and obligations established under this Regulation, the investment product manufacturer or the person selling investment products shall participate in that procedure, provided that it fulfils the following requirements:

Or. en

Amendment 121
Pier Antonio Panzeri

Proposal for a regulation
Article 15 – paragraph 1 – introductory part

Text proposed by the Commission

1. Where a retail investor initiates a procedure for alternative dispute resolution laid down in national law against an investment product manufacturer or a person selling investment products with regard to a dispute concerning ***rights and obligations established under this Regulation***, the investment product manufacturer or the person selling investment products shall participate in that procedure, provided that it fulfils the following requirements:

Amendment

1. ***Member States shall ensure that*** where a retail investor initiates a procedure for alternative dispute resolution laid down in national law against an investment product manufacturer or a person selling investment products with regard to a dispute concerning ***the key information document and the underlying investment products*** the investment product manufacturer or the person selling investment products shall participate in that procedure, provided that it fulfils the following requirements:

Or. en

Amendment 122
Sirpa Pietikäinen

Proposal for a regulation
Article 15 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. Where a retail investor initiates a procedure for alternative dispute resolution laid down in national law against an investment product manufacturer or a person selling investment products with regard to a dispute concerning rights and obligations established under this Regulation, the investment product manufacturer or the person selling investment products shall participate in that procedure, ***provided that it fulfils the following requirements:***

1. Where a retail investor initiates a procedure for alternative dispute resolution laid down in national law against an investment product manufacturer or a person selling investment products with regard to a dispute concerning rights and obligations established under this Regulation, the investment product manufacturer or the person selling investment products ***may or*** shall participate in that procedure ***according to the rules laid down in the Directive [...] on alternative dispute resolution.***

Or. en

Amendment 123
Sirpa Pietikäinen

Proposal for a regulation
Article 15 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) the procedure results in decisions which are not binding;

deleted

Or. en

Amendment 124
Pier Antonio Panzeri

Proposal for a regulation
Article 15 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) the procedure results in decisions which ***are not*** binding;

(a) the procedure results in decisions which ***may be*** binding ***for the manufacturer and the person selling investment products;***

Amendment 125
Sirpa Pietikäinen

Proposal for a regulation
Article 15 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) the limitation period for bringing the dispute before a court is suspended for the duration of the procedure for alternative dispute resolution; *deleted*

Or. en

Amendment 126
Sirpa Pietikäinen

Proposal for a regulation
Article 15 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) the period of prescription of the claim is suspended for the duration of the procedure; *deleted*

Or. en

Amendment 127
Cristian Silviu Buşoi

Proposal for a regulation
Article 15 – paragraph 1 – point d

Text proposed by the Commission

Amendment

(d) the procedure is free of charge or at moderate cost, as specified in national legislation; *deleted*

Justification

This requirement does not have any link with the right to bring legal proceedings before a court, as indicate din Recital 22. Unnecessary requirements will only make it harder to make the participation of investment product manufacturers or persons selling such products in ADR procedures initiated by retail investors. This requirement should therefore be deleted.

Amendment 128

Sirpa Pietikäinen

Proposal for a regulation

Article 15 – paragraph 1 – point d

Text proposed by the Commission

Amendment

(d) the procedure is free of charge or at moderate cost, as specified in national legislation;

deleted

Or. en

Amendment 129

Pier Antonio Panzeri

Proposal for a regulation

Article 15 – paragraph 1 – point d

Text proposed by the Commission

Amendment

(d) the procedure is free of charge or at moderate cost, as specified in national legislation;

(d) the procedure is free of charge or available at nominal fee;

Or. en

Amendment 130

Cristian Silviu Buşoi

Proposal for a regulation

Article 15 – paragraph 1 – point e

Text proposed by the Commission

Amendment

(e) electronic means are not the only means by which the parties can gain access to the procedure;

deleted

Or. en

Justification

This requirement does not have any link with the right to bring legal proceedings before a court, as indicated in Recital 22. Unnecessary requirements will only make it harder to make the participation of investment product manufacturers or persons selling such products in ADR procedures initiated by retail investors. This requirement should therefore be deleted.

Amendment 131
Sirpa Pietikäinen

Proposal for a regulation
Article 15 – paragraph 1 – point e

Text proposed by the Commission

Amendment

(e) electronic means are not the only means by which the parties can gain access to the procedure;

deleted

Or. en

Amendment 132
Pier Antonio Panzeri

Proposal for a regulation
Article 15 – paragraph 1 – point e

Text proposed by the Commission

Amendment

(e) electronic means are ***not the only*** means by which the parties can gain access to the procedure;

(e) electronic means are ***additional*** means by which the parties can gain access to the procedure;

Or. en

Amendment 133
Pier Antonio Panzeri

Proposal for a regulation
Article 15 – paragraph 1 – point f

Text proposed by the Commission

Amendment

(f) interim measures are possible in exceptional cases where the urgency of the situation so requires. **deleted**

Or. en

Amendment 134
Cristian Silviu Buşoi

Proposal for a regulation
Article 15 – paragraph 1 – point f

Text proposed by the Commission

Amendment

(f) interim measures are possible in exceptional cases where the urgency of the situation so requires. **deleted**

Or. en

Justification

This requirement does not have any link with the right to bring legal proceedings before a court, as indicate din Recital 22. Unnecessary requirements will only make it harder to make the participation of investment product manufacturers or persons selling such products in ADR procedures initiated by retail investors. This requirement should therefore be deleted.

Amendment 135
Sirpa Pietikäinen

Proposal for a regulation
Article 15 – paragraph 1 – point f

Text proposed by the Commission

Amendment

(f) interim measures are possible in exceptional cases where the urgency of the situation so requires.

deleted

Or. en

**Amendment 136
Pier Antonio Panzeri**

**Proposal for a regulation
Article 15 – paragraph 1 a (new)**

Text proposed by the Commission

Amendment

1a. Member States shall ensure the setting-up of appropriate, transparent, effective, impartial, independent, fast and fair redress procedures for alternative dispute resolution between investment product manufacturer and seller and retail investors.

Member States shall further ensure that all investment products manufacturers and sellers participate in the procedures for the alternative out-of-court settlement of disputes.

Or. en

**Amendment 137
Pier Antonio Panzeri**

**Proposal for a regulation
Article 15 – paragraph 2 a (new)**

Text proposed by the Commission

Amendment

2a. Member States shall ensure that when alternative dispute resolution entities are permitted to establish pre-specified monetary thresholds in order to limit the

access to alternative dispute resolution procedures, the thresholds should not be set at a level, where they significantly impair the consumers' access to complaint handling by alternative dispute resolution entities.

Or. en

Amendment 138
Pier Antonio Panzeri

Proposal for a regulation
Article 15 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Member States shall facilitate access by retail investors to alternative dispute resolution procedures and shall ensure that disputes involving manufacturers and the persons selling investment products established on its territory can be submitted to an alternative dispute resolution entity.

Or. en

Amendment 139
Olle Schmidt

Proposal for a regulation
Article 19 – paragraph 2 – point c

Text proposed by the Commission

Amendment

(c) a warning, which is made public and which identifies the person responsible and the nature of the breach;

(c) a warning, which is made public and which identifies the **legal** person responsible and the nature of the breach;

Or. en

Amendment 140
Olle Schmidt

Proposal for a regulation
Article 20 – paragraph 1 – point b

Text proposed by the Commission

(b) the degree of responsibility of the responsible person;

Amendment

(b) the degree of responsibility of the responsible **legal** person;

Or. en

Amendment 141
Olle Schmidt

Proposal for a regulation
Article 20 – paragraph 1 – point d

Text proposed by the Commission

(d) the cooperative behaviour of the person responsible for the breach;

Amendment

(d) the cooperative behaviour of the **legal** person responsible for the breach;

Or. en

Amendment 142
Olle Schmidt

Proposal for a regulation
Article 20 – paragraph 1 – point e

Text proposed by the Commission

(e) any previous breaches by the responsible person.

Amendment

(e) any previous breaches by the responsible **legal** person.

Or. en

Amendment 143
Olle Schmidt

Proposal for a regulation
Article 23 – paragraph 1

Text proposed by the Commission

1. The power to adopt **delegated acts** is conferred on the Commission subject to the conditions laid down in this Article.

Amendment

1. The power to adopt **technical standards** is conferred on the Commission subject to the conditions laid down in this Article.

Or. en

Justification

In order to provide appropriate flexibility and to enable the industry and the ESAs to react swiftly to developments in the market place, the three ESAs should collectively draw up joint regulatory technical standards rather than the Commission being empowered to adopt delegated acts.

Amendment 144
Olle Schmidt

Proposal for a regulation
Article 23 – paragraph 2

Text proposed by the Commission

2. The power to adopt **delegated acts** referred to in Articles 8(5), 10(2) and 12(4) shall be conferred on the Commission for a period of [4 years] from the entry into force of this Regulation. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

Amendment

2. The power to adopt **technical standards** referred to in Articles 8(5), 10(2) and 12(4) shall be conferred on the Commission for a period of [4 years] from the entry into force of this Regulation. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

Or. en

Justification

In order to provide appropriate flexibility and to enable the industry and the ESAs to react swiftly to developments in the market place, the three ESAs should collectively draw up joint regulatory technical standards rather than the Commission being empowered to adopt delegated acts.

Amendment 145
Olle Schmidt

Proposal for a regulation
Article 23 – paragraph 3

Text proposed by the Commission

3. The delegation of powers referred to in Articles 8(5), 10(2) and 12(4) may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any *delegated acts* already in force.

Amendment

3. The delegation of powers referred to in Articles 8(5), 10(2) and 12(4) may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any *technical standards* already in force.

Or. en

Justification

In order to provide appropriate flexibility and to enable the industry and the ESAs to react swiftly to developments in the market place, the three ESAs should collectively draw up joint regulatory technical standards rather than the Commission being empowered to adopt delegated acts.

Amendment 146
Olle Schmidt

Proposal for a regulation
Article 23 – paragraph 4

Text proposed by the Commission

4. As soon as it adopts a *delegated act*, the Commission shall notify it simultaneously to the European Parliament and to the Council.

Amendment

4. As soon as it adopts *technical standards*, the Commission shall notify it simultaneously to the European Parliament and to the Council.

Justification

In order to provide appropriate flexibility and to enable the industry and the ESAs to react swiftly to developments in the market place, the three ESAs should collectively draw up joint regulatory technical standards rather than the Commission being empowered to adopt delegated acts.

Amendment 147**Olle Schmidt****Proposal for a regulation****Article 23 – paragraph 5***Text proposed by the Commission*

5. A **delegated act** adopted pursuant to Articles 8(5), 10(2) and 12(4) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by [2 months] at the initiative of the European Parliament or the Council.

Amendment

5. A **technical standard** adopted pursuant to Articles 8(5), 10(2) and 12(4) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by [2 months] at the initiative of the European Parliament or the Council.

Justification

In order to provide appropriate flexibility and to enable the industry and the ESAs to react swiftly to developments in the market place, the three ESAs should collectively draw up joint regulatory technical standards rather than the Commission being empowered to adopt delegated acts.

Amendment 148**Olle Schmidt**

Proposal for a regulation
Article 24 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

When a Member State applies rules on the format and content of the key information document, as set out in articles 78 to 81 of Directive 2009/65/EC, to non UCITS funds offered to retail investors, the exemption set out in paragraph 1 shall apply to management companies, investment companies and persons selling or advising on units of such funds to retail investors.

Or. en

Justification

Member States should be permitted to allow non UCITS funds which at national level are currently subject to the key investor information requirements as formulated in the UCITS 4 Directive, should also be covered by the transitional period. This would contribute in fostering a level playing field among investment products.

Amendment 149
Olle Schmidt

Proposal for a regulation
Article 24 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

Management companies and investment companies as defined in Article 4(1)(b) of Directive 2011/61/EU, and persons selling units of AIFs as defined in Article 4(1)(a) of that Directive, are exempted from the obligations under this Regulation provided that they provide a key investor information document pursuant to national law in accordance with Article 78 of Directive 2009/65/EC or relevant provisions of national law, until [OJ: please insert the date 5 years after the

entry into force].

Or. en

Justification

Many Member States have extended the KIID standards for UCITS to other open-ended retail investment funds regulated at national level. Those funds should also be able to benefit from the temporary exemption from the scope as investors in those funds have only just been informed of the new document and the AIFMs have already had to bear the KIID implementing costs in the same way as UCITS management companies.

Amendment 150
Olle Schmidt

Proposal for a regulation
Article 25 – paragraph 1

Text proposed by the Commission

1. Four years after the date of entry into force of this Regulation, the Commission shall review this Regulation. The review shall include a general survey of the practical application of the rules laid down in this Regulation, taking due account of developments in the market for retail investment products. As regards UCITS as defined in Article 1 (2) of Directive 2009/65/EC, the review shall assess whether the transitional arrangements under Article 24 of this Regulation shall be prolonged, or whether, following the identification of any necessary adjustments, the provisions on key investor information in Directive 2009/65/EC might be replaced by or considered equivalent to the key investor document under this Regulation. The review shall also reflect on a possible extension of the scope of this Regulation to other financial products.

Amendment

1. Four years after the date of entry into force of this Regulation, the Commission shall review this Regulation. The review shall include a general survey of the practical application of the rules laid down in this Regulation, taking due account of developments in the market for retail investment products. As regards UCITS as defined in Article 1 (2) of Directive 2009/65/EC, the review shall assess whether the transitional arrangements under Article 24 of this Regulation shall be prolonged, or whether, following the identification of any necessary adjustments, the provisions on key investor information in Directive 2009/65/EC might be replaced by or considered equivalent to the key investor document under this Regulation. The review shall also reflect on a possible extension of the scope of this Regulation to other financial products, ***including those falling under the Directive 2003/71/EC and any other investments and savings products.***

Justification

The review clause of this regulation should also include the revision of the scope to other retail financial products, including “unpackaged” investments and all forms of savings products.

Amendment 151

Thomas Händel

Proposal for a regulation

Article 26 – paragraph 2

Text proposed by the Commission

It shall apply from [*two years* after its entry into force].

Amendment

It shall apply from [*one year* after entry into force].