

# Year end twist in the PRIIPS saga

11 January 2017

## *In brief*

The European Supervisory Authority (ESAs) have rejected the amended Regulatory Technical Standards (RTS) as proposed by the European Commission. The expected timeframe of RTS endorsement as of beginning of 2017 is again questioned.

## *In detail*

While the financial sector was hoping the new Regulatory Technical Standards (RTS) on PRIIPS to be released by the end of 2016, once more the unexpected happened.

Following the unprecedented rejection of the RTS by the European Parliament, the European Commission (EC) decided to amend the RTS but limited to targeted areas such as performance scenarios, multi-option products and the disclosure of costs. In November, the EC mandated the ESA to review the changes by the end of 2016.

But, on 22 December 2016, a new twist occurred in what can be called now the “PRIIPs saga”.

In a letter to Mr. Olivier Guersent, Director General for the financial stability, financial services and the capital market union at the EC, the ESAs informed that they could not agree on the changes proposed by the EC.

Albeit EBA and ESMA’s boards accepted the amendments, the third ESA member, EIOPA which is the supervisory body of the insurance sector, failed to obtain the required qualifying majority. The main reasons are the treatment of Multi-Option Products (MOP), the criterion to determine whether a comprehension alert should be included in a KID as well as the provisions in the RTS on the credit risk mitigation factors for insurers.

On top of that, the ESAs reached the consensus that the corrections brought by the EC to the moderate performance scenarios raise comprehension issues and may be misleading. In the first draft RTS, the moderate scenario was based on historic returns over a five-year period. But this led to misleading attractive performance in case of exceptional past performances.

To address that issue, the EC revised the formula for the moderate scenario. As a result of that change, performance are flat.

The ESAs stated in its letter that *“concerns were raised regarding the credibility of the ‘moderate’ scenario if it is either zero or, once costs are taken into account, indicates an expectation of losses over the whole recommended holding period.”*

The pressure is now on the Commission. On the one hand, they could decide to ignore the comments from the ESA and go on but risk to face a second rejection from the Parliament. On the other hand, they could take into consideration ESA's concerns and re-draft a third version of the RTS, meaning to push back their released date for the financial sector.

After the delay granted by the European bodies, PRIIPS is scheduled to enter in force the 31 December 2017. However, the timeframe and the next steps for the RTS remain unclear.

2017 starts like 2016 ended: in the uncertainty.

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