

PRIIPs KIDs - New Q&A issued in the Central Bank AIFMD Guidance

The Central Bank of Ireland (“Central Bank”) published the 46th Edition of the Central Bank Alternative Investment Funds Managers Directive (“AIFMD”) Q&A on 21st of December 2022. In the new edition there was one new Q&A, ID 1126, which relates to the treatment of key information documents (“KIDs”) produced by alternative investment funds (“AIFs”) pursuant to their obligations as package retail and insurance-based investment products (“PRIIPs”).

Background

The "AIF Rulebook" is published by the Central Bank to specify the conditions that are applied to an AIF, AIFM, or other relevant entities when an authorization is granted under AIFMD and on an ongoing basis. It is published to help ensure clarity for the industry. The AIF Rulebook evolves over time as matters that require additional clarity are identified related guidance is subsequently issued. The Central Bank also issues a Q&A on its interpretation of different aspects of the AIFMD as well as its related filing and procedural requirements. The Central Bank maintains constant dialogue with industry and monitors market dynamics to ensure that its rules are adequate. Updates to the AIF Rulebook and Q&A are announced in the 'Markets Update' which are produced periodically and appear in updated editions on the Central Bank website.

PRIIPs

PRIIPs were initially regulated pursuant to Regulation (EU) No1286/2014 (the “PRIIPs Regulation”). The PRIIPs Regulation applies to all products regardless of their form or construction, that are manufactured by the financial services industry to provide investment opportunities to retail investors, where the amount repayable to the retail investor is subject to fluctuation because of exposure to reference values, or subject to the performance of one or more assets which are not directly purchased by the retail investor. This broad umbrella includes in its scope products such as investment funds, life assurance policies with an investment element, structured products and

structured deposits. One of the obligations for in scope products is to produce a PRIIPs KID, the form and contents of which are prescribed. Regulatory technical standards (“RTS”) pertaining to these were initially issued in 2017 and further updated in 2021. The European Commission has also issued guidance on the form, contents and presentation of these documents.

Clarification

The Central Bank has now clarified in this new Q&A ID 1126 that it will require Retail Investor AIFs (“RIAIFs”) to file PRIIP KIDs with it on a post basis in cases where they are required to produce these. This obligation will extend to existing KIDs revised for periodic updates as well. The first general annual filing of such KIDs will occur in January 2024. The Central Bank will provide further updates in future outlining its current requirements in this regard. A Qualifying investor alternative investment fund (“QIAIF”) will need to produce a PRIIP KID if they plan on marketing towards non-professional clients but QIAIFs will not be required to file PRIIPs KIDs with the Central Bank where they are not marketed towards retail investors.

How can Clerkin Lynch assist?

The asset management team at Clerkin Lynch continually reviews the requirements of the Central Bank and can outline relevant legal obligations for firms in scope in order to assist firms to ensure compliance with all related legislation.



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