

The Consumer Protection Working Group continued its work on the PRIIPs Regulation. In particular, it prepared the AAE's response to the consultation launched by the European Supervisory Authorities on a possible intermediate revision of the PRIIPs Delegated Regulation (RTS).

This regulation has raised important challenges that have been shared within the AAE's Consumer Protection Working Group, particularly with regard to performance scenarios.

### **Consultation on PRIIPs intermediate review**

In its reply, the AAE did welcome the confirmation that a more fundamental revision of the PRIIPs regulations should be planned. Nevertheless, the AAE prevented against the idea of finding quick fix because the quick fix approach does not make it possible to solve the structural problems arising from the methodological principle adopted by this Regulation and the outputs of this approach would result in an additional burden for the industry with little benefit for consumers.

Therefore the AAE expressed the view that any change should be deferred until a satisfactory framework has been designed to support a complete, more fundamental and one-off review of the Regulation. This view was shared by most stakeholders and eventually taken into account by the ESAs.

We note also that the consultation does not deal with issues in relation to industry views on transaction costs. These issues should also be considered in the more fundamental revision of the regulations.

The AAE shared the view expressed by the ESAs in their letter of 1 October 2018, which warned against adopting an approach whereby retail investors will receive both the key PRIIP information documents (hereinafter referred to as PRIIPs KID) and those of UCITS. From this perspective, the AAE observes that extending the KIID exemption would be in line with the search for a more satisfactory framework for the review of the PRIIPs. Sur ce point également, les autorités européennes ont évolué de manière satisfaisante en prolongeant l'exonération des OPCVM.

In their proposals, the ESAs have extensively discussed the possibility of including past performance in the KID PRIIPs, in addition to future performance scenarios. In accordance with its general statement the AAE deemed that the introduction of past performance figures in the current state of the Regulation would be counterproductive and should only be considered as part of a more fundamental revision of the PRIIPs Regulation.

### **Further reflections about PRIIPs and performance scenarios**

The AAE underlined in its answer to the ESAs consultation that the current method, because it is also based on past performance, has even more worrying disadvantages because it is less objective (for example negative future performances make no sense) and because the consumer cannot understand the projection method used and is even more exposed to the biases mentioned above. In both cases, past performance based methods strengthen the client behavior to buy at the peak and hardly buy, rather sell at the bottom of the market. This pro-cyclicality may be very detrimental for the consumer.

The issue of performance scenarios is one of the main themes of the in-depth review of the RTS initiated by the ESAs at a workshop on 18 and 19 March. The AAE was invited to this workshop, but was not in a position to make a proposal due to too short a notice.

Nevertheless, the Consumer Protection Working Group will organize further meetings to send analytical papers and proposals to EIOPA as part of the review of PRIIPs RTS.

### **Cost and performance project**

It should be noted that further work needs to be done, for which EIOPA has requested the assistance of the AAE, on the calculation of the past performance of products. This task is carried out by the Insurance Committee with the assistance of national experts.

Although not a part of PRIIPs but of the Commission's project to establish at market level indicators to monitor cost and performance of saving and pensions product across EU, it is closely related to PRIIPs.

We must note - and regret - that such an initiative comes very late, and shed light on the fact that the PRIIPs regulation requires the construction of performance scenarios on products without first establishing a method to define how to measure performance for products with participatory characteristics.