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Statement by Gabriel Bernardino

Chair of the Joint Committee of the European Supervisory Authorities

ECON scrutiny hearing on PRIIPs 20 February 2019 Brussels

Honourable Chair and Members of the Parliament,

It is my pleasure to address you today in my role as Chair of the Joint Committee of the European Supervisory Authorities (ESAs) for 2019.

I would like to thank the Chair and the Members of the ECON committee for the opportunity to provide an update on the ESAs' work in relation to the delegated acts for the key information documents (KID) for packaged retail and insurance-based investment products (PRIIPs).

First of all, I would like to underline the importance of the KID in increasing the transparency and comparability of investment products through the issue of a standardised short form disclosure document.

We are committed to supporting an effective and convergent implementation of these rules as a variety of different national approaches to the KID will not help PRIIP manufacturers, distributors, or most importantly, consumers, particularly in the context of cross-border business.

We are also committed to reviewing the existing rules, where this is needed, so they can apply equally well to all different types of PRIIPs. It is normal with rules as complex as these to refine and adjust them based on practical experience with what works well and what less well.

We are aware that stakeholders have raised strong concerns regarding some aspects of the current rules.

We have been examining these issues and considering what to do. In some cases, we have published Questions and Answers to clarify technical points. However, we decided in the

autumn of last year that the best course of action on some issues was to propose targeted amendments to the PRIIPs Delegated Regulation.

We launched a public consultation in November last year, which focused on changes to the performance scenarios. These have been the part of the KID that have raised the most critical issues. We also proposed changes in the consultation to avoid a duplication of disclosures between PRIIPs and UCITS, which we were concerned risked undermining the aims of these disclosures.

I would like to summarise briefly some of the main themes that emerged from this public consultation:

- There is a consensus amongst stakeholders that the current performance scenarios in the KID should not be taken as best estimate forecasts, yet there is a risk that consumers read them that way. Stakeholders also expressed concerns that the current economic environment leads to scenarios that may not sufficiently reflect market expectations that future returns are going to be lower, at least in some markets;
- The proposals that the ESAs made to strengthen the warnings in the KID were generally supported. However, it was stated that there are no “quick-fixes” that can be made to the performance scenario methodology and, therefore, it was suggested that the ESAs should undertake a comprehensive analysis of alternative approaches;
- For certain types of PRIIPs, such as actively managed funds, both industry and consumer associations are of the view that the most relevant information for the consumer is the PRIIP’s past performance;
- While the ESAs’ public consultation focused on performance scenarios, a number of respondents, many from the asset management sector, also highlighted the importance of reviewing aspects of the cost disclosures.

When deciding on our final recommendations, we carefully considered this feedback. We also took into account the expected decision by the co-legislators to defer the application of the KID to UCITS by two years to the end of 2021. Given this, we concluded, as published in early February, that it was not appropriate to propose narrowly targeted amendments at this stage.

However, we consider that immediate supervisory steps are needed to reduce the risk that the meaning of the current performance scenario figures is misinterpreted or there is undue reliance on them.

We have therefore issued a joint ESA Supervisory Statement to promote consistent approaches and improve the protection of retail investors prior to the conclusion of a fuller review. In the statement, the ESAs recommend PRIIP manufacturers to include a warning in the KID to ensure that retail investors are fully aware of the limitations of the figures provided.

In our February publication, we also said we would launch a more comprehensive review of the PRIIPs Delegated Regulation this year, and set out the main areas of the rules that we intended to address.

I would like to highlight a number of these aspects now:

- We intend to cover issues related to performance as well as costs disclosure. This will include assessing whether the transaction cost methodology and reduction in yield approach should be adjusted. We will also draw on our analysis of KIDs during the work started last year to report on an annual basis on the costs and past performance of investment products;
- We will focus our work on possible amendments to the PRIIPs Delegated Regulation. However, where our work indicates changes to the PRIIPs Level 1 Regulation are needed to achieve the optimal outcomes at Level 2, we would intend to recommend such changes also;
- Given the very wide scope of the Regulation, and to ensure the KID works equally well for all products, we think that some further differentiation in approach for different types of PRIIPs may be needed, while still adhering to the aim of comparability between substitutable products;
- We intend to carry out consumer testing, including both the existing KID and alternatives.

The important thing is to keep a firm view on the original aims of the Regulation – giving consumers better and easier to understand information – and to avoid endangering this aim further during the upcoming review process.

In this regard we welcome input from Members of Parliament on how to improve the transparency and comparability of the KID, to make it work better for the consumers it has been designed for.

Finally, we welcome the confirmation that amendments to the PRIIPs Regulation will be made this year regarding the issue of the duplication of disclosures between PRIIPs and UCITS; some minor consequential adjustments to align the PRIIPs Delegated Regulation with the new deadline will also be needed. We now have the time to ensure the PRIIPs KID can work for all products, including UCITS. This will enhance the ability for consumers to compare between investment products and ensure a level-playing field for providers.