

Asset Management & Investment Funds Update

October 2022

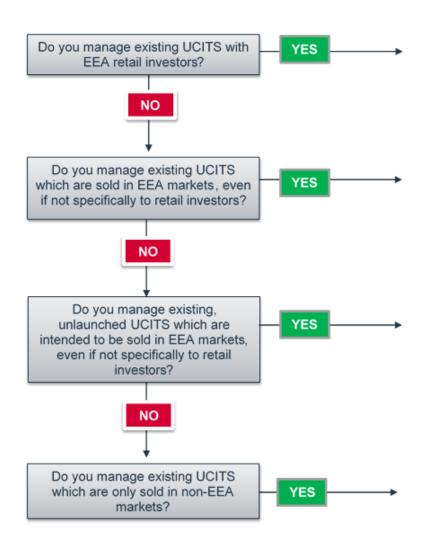


PRIIPs Decision Tree

As UCITS managers prepare to comply with the PRIIPs regime from 1 January 2023, the decision tree on the following page can be used as a ready reckoner for managers of existing UCITS in finalising their approach to compliance with the obligation to prepare and publish a PRIIPs key information document (**KID**).

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PRIIPs decision tree for existing UCITS



You are <u>obliged</u> to publish a PRIIPs KID on your website <u>by 1 January 2023</u> and, where you are advising on/selling the UCITS, arrange to provide the KID to EEA based retail investors in good time prior to any additional or new subscriptions in the UCITS. UCITS which produce a PRIIPs KID are deemed to have satisfied the UCITS KIID rules and so the PRIIPs KID can be produced instead of a UCITS KIID.

You are <u>advised*</u> to publish a PRIIPs KID on your website <u>by 1 January 2023</u> and arrange to provide the KID to investors in good time prior to any new/additional subscriptions. If you decide not to produce a PRIIPs KID for the UCITS, you must continue to produce a UCITS KIID in compliance with applicable UCITS rules.

You are advised* to publish a PRIIPs KID on your website before launch and arrange to provide the KID to investors in good time prior to any subscriptions. If you decide not to produce a PRIIPs KID for the UCITS, you must continue to produce a UCITS KIID in compliance with applicable UCITS rules.

You have the <u>option</u> to either continue producing a UCITS KIID or to instead produce a PRIIPs KID for your existing UCITS. <u>From the date you opt</u> to produce a PRIIPs KID for the UCITS you are obliged to publish the PRIIPs KID on your website and arrange to provide the KID to investors in good time prior to any new/additional subscriptions. Noting however, that if the non-EEA markets into which the UCITS are sold include the UK, UK inward marketing rules require the UCITS to be sold with a UCITS KIID until December 2026. If you continue producing a UCITS KIID for the UCITS you must do so in compliance with applicable UCITS rules.

*This is on the basis that UCITS 'made available' to EEA retail investors are obliged to produce a PRIIPs KID, where the Commission considers the 'made available' threshold to be met where the UCITS is sold to EEA retail investors, whether with or without advice or at the initiative of the investor or otherwise (para (16)&(17) Commission Guidelines). As UCITS must provide for public participation in their regulated fund documents, it is difficult to discount the possibility of an EEA retail investor accessing the fund, particularly in circumstances where the UCITS is marketed in the EEA. Accordingly, it is advisable for the UCITS to produce a PRIIPs KID to mitigate the risk of breaching PRIIPs rules should an EEA retail investor invest in the UCITS.



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