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Changes to UK PRIIPs Rules



By **Alix Prentice**
Partner | Financial Regulation

The transitional period for the implementation of new scope rules and amendments to regulatory technical standards for Packaged Retail and Insurance-based Investment Products (“PRIIPs”) came to an end on 31 December 2022, meaning that the new rules and guidance set out in Policy Statement PS22/2 by the Financial Conduct Authority (“FCA”) are now in force. PRIIPs rules, guidance and technical standards are aimed at protecting retail investors in these packaged products, largely through the prescription of the content and form of pre-investment disclosures, which has proved problematic for product providers and distributors.

The changes chiefly address:

- a perceived lack of clarity of scope as to what is and is not a PRIIP – in particular, to make it clearer that certain features of corporate bonds make it unlikely that they will amount to PRIIPs;
- guidance on what it means for a PRIIP to be “made available” to retail customers, which may cause issuers to amend selling restrictions for packaged products that are not intended for the retail market but would otherwise be categorised as PRIIPs;
- problems in the methodologies for producing the required performance scenarios for the pre-investment disclosure Key Investor Document (“KID”) as well as the use of inappropriately low summary risk indicators and issues with the calculation of transaction costs; and
- an extension of time for regulated retail (UCITS) funds to continue to use the existing Key Investor Information Document (“KIID”) to 2026.

While it remains up to issuers to determine whether or not what they are producing is a PRIIP, guidance on bonds does describe some distinctions between

PRIIP and non-PRIIP debt securities by setting out certain indicative and certain neutral criteria. In the former category, linkages or material dependencies on levels of interest, conditionality of principal repayment or issuer default risk to fluctuations in reference indices or benchmarks, reference asset value or performance, or the performance or value of investments held by an issuer or a connected person (such as a pool of receivables) look like PRIIPs' features. In the neutral camp, though, are features such as fixed, floating or variable coupons and put or call options.
