

# **FCA's disclosure rules following application of PRIIPs Regulation**

## Feedback to CP16/18 and final rules

### **Policy Statement**

PS17/6\*\*

2 May 2017

## This relates to

Consultation Paper 16/18 which is available on our website at [www.fca.org.uk/publications](http://www.fca.org.uk/publications)

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# 1 Overview

## Introduction

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- 1.1** In July 2016 we published a Consultation Paper (CP)<sup>1</sup> setting out how we propose to reflect the Packaged Retail and Insurance-based Investment Products (PRIIPs) Regulation<sup>2</sup> in our Handbook.
- 1.2** We explained how the PRIIPs Regulation will change the disclosure regime for firms that manufacture, advise on or sell PRIIPs. As well as proposing amendments to existing disclosure provisions in the FCA Handbook, we set out how we considered the PRIIPs Regulation and related Regulatory Technical Standards (RTSs)<sup>3</sup> will affect FCA-authorized firms. The RTSs will set out the format and methodology firms should use to compile the Key Information Document (KID).
- 1.3** In September 2016, the European Parliament rejected the RTSs drafted by the European Supervisory Authorities (ESAs). As firms will need to refer to the RTSs in order to compile the key information document (KID), firms need access to the finalised RTSs in order to comply with the PRIIPs Regulation. In the absence of these, given the need for legal certainty and a smooth implementation for consumers, in November 2016 the European Commission announced proposals to delay the application date of the PRIIPs Regulation to 1 January 2018. On 8 March 2017 the European Commission published revised RTSs. These were then published in the Official Journal of the European Union on 12 April 2017.
- 1.4** This Policy Statement (PS) summarises and responds to the feedback to the CP. It sets out how our disclosure requirements will change to reflect the introduction of the PRIIPs KID, and sets out final rules and guidance. Given the delayed application of the PRIIPs Regulation, these rules will apply from 1 January 2018, the same day on which the PRIIPs Regulation is expected to take effect.
- 1.5** We will continue to consider all legal developments affecting the scope and application of the PRIIPs Regulation including any developments associated with publication of the related RTSs. For example, the PRIIPs Regulation may be subject to future guidance or clarification from the European Commission and/or the ESAs. In the absence of any such guidance or clarification, to help firms plan for the introduction of the PRIIPs Regulation, we have previously set out our views in an information document: PRIIPs disclosure: Key Information Documents (updated November 2016)<sup>4</sup> and we include comments in this PS.

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1 See [www.fca.org.uk/publication/consultation/cp16-18.pdf](http://www.fca.org.uk/publication/consultation/cp16-18.pdf)

2 Regulation (EU) No. 1286/2014

3 See [http://ec.europa.eu/finance/financeservices-retail/investment\\_products/index\\_en.htm#maincontentSec1](http://ec.europa.eu/finance/financeservices-retail/investment_products/index_en.htm#maincontentSec1)

4 See [www.fca.org.uk/firms/priips-disclosure-key-information-documents](http://www.fca.org.uk/firms/priips-disclosure-key-information-documents)



- 1.6** We recognise that some firms will experience operational difficulties and legal uncertainty, and we have been asked to provide clarity. So, although there are risks involved in giving our views on certain issues now, in this PS, we consider it appropriate to provide firms with as much clarity as we can on our views on the scope of the PRIIPs Regulation. We will also consider updating the information document or providing other comment if necessary.
- 1.7** During 2017 we will consult separately on changes to the Enforcement Guide (EG) and Decision Procedure and Penalties manual (DEPP). This consultation will set out our enforcement approach in relation to investigations under the PRIIPs Regulation, including how we intend to exercise our powers against unauthorised firms alleged to have breached the PRIIPs Regulation. We also plan to consult on amending DEPP to set out the decision-making procedure relating to decisions made under the PRIIPs Regulation.

### Who does this Policy Statement affect?

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- 1.8** The PRIIPs Regulation will be directly applicable within the European Union (EU) and will not require transposition by domestic United Kingdom (UK) legislation. It will require persons to prepare, publish and provide a KID for each PRIIP manufactured. From the date the regulation applies, firms in the UK will need to comply with it, in addition to any relevant disclosure provisions in the FCA Handbook and any separate EU or domestic legislation that may also apply. Following the UK leaving the EU, we envisage that the PRIIPs Regulation will form part of the body of EU legislation that is converted into UK law.
- 1.9** This paper will be relevant to most firms that provide, advise on, or sell investments or investment services to the UK retail market.
- 1.10** In particular, this PS affects the following:
- Firms that manufacture<sup>5</sup>, advise on, or sell retail investment products that fall within the scope of the PRIIPs Regulation (firms will need to produce, publish or provide KIDs for packaged retail products, such as funds, insurance-based investments, structured products, derivatives, and investments issued by some special purpose vehicles).
  - Firms that are UCITS management companies (these firms will be required to replace the UCITS key investor information (KII) document with the PRIIPs KID after a transitional period).
  - Firms that are authorised fund managers of non-UCITS retail schemes (NURS) or an investment company with variable capital (ICVC) that is a NURS (these firms will be able to produce a non-UCITS retail scheme-key investor information (NURS-KII) document as an alternative to the KID for a transitional period).
  - Firms who, although outside the scope of the PRIIPs Regulation, may want to reconsider their use of colours in retail client disclosure documents.

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<sup>5</sup> As mentioned in CP16/18 paragraph 2.12 distributing firms may be affected if they 'make changes' to an existing PRIIP, when they will be considered PRIIP manufacturers – see PRIIPs Regulation Article 4(4)(b).

- Firms who currently provide investors in NURS or Qualified Investor Schemes (QISs) with a Key Features Document (KFD) or a simplified prospectus.
- Consumers who buy or receive advice on PRIIPs.

**1.11** This PS will be of interest to firms providing legal, regulatory or compliance support services to firms that provide investments or investment services to the UK retail market.

### Is this of interest to consumers?

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**1.12** This PS will be of interest to consumer organisations and retail consumers of investments or investment services. It discusses the introduction of the KID, and explains how some of the disclosure documents retail consumers will receive from firms after 2018 will have different names, layout and content.

### Context

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**1.13** The PRIIPs Regulation will require persons within its scope to draw up, publish and provide a KID for each PRIIP manufactured. The regulation, and related RTSs, set out the form and content of the KID. In developing and making this legislation, the European Parliament and the Council of the European Union's aim is to help retail investors compare products and make informed decisions, and to facilitate the single market for PRIIPs.

**1.14** Given this new legislative framework, in the CP we proposed amendments to the disclosure rules in the FCA Handbook. The policy approach we consulted on took account of the existing UK and EU regulatory disclosure frameworks. We will keep our policy under review to assess whether any further changes are required due to intervening changes in the UK regulatory framework, including as a result of any negotiations and legislative changes following the UK's referendum on EU membership.

**1.15** The UK must comply with EU Regulations for as long as it remains a member of the EU. To comply with EU law, and to avoid duplication and confusion about the disclosure requirements in the FCA Handbook that apply to firms, the instrument accompanying this PS deletes, amends or dis-applies certain Handbook rules which apply requirements that are either superseded by the PRIIPs Regulation, or incompatible with it. We are also making changes to the FCA Handbook so it is clear to firms that disclosure requirements in the PRIIPs Regulation may apply to them and that, where relevant, revised FCA Handbook disclosure provisions may apply as well. The Handbook provisions that will continue to apply include rules in place as a result of our implementation of EU Directives such as the Markets in Financial Instruments Directive (MiFID) and the Prospectus Directive (PD).



**1.16** This PS sets out the disclosure framework that, following the direct application of the PRIIPs Regulation, will apply to firms that manufacture, give advice on, or sell, PRIIPs to consumers in the UK retail market. In making changes to our disclosure framework we aim to advance the FCA's objectives of:

- securing an appropriate degree of protection for consumers; and
- promoting effective competition in the interest of consumers.

## Summary of feedback and our response

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**1.17** The consultation closed on 19 September 2016 and we received 28 responses<sup>6</sup>. Respondents included investment and insurance-based product providers, investment managers, trade bodies, securities exchanges, law firms and other support businesses, and other interested parties. Respondents that provided non-confidential responses are listed in Annex 1.

**1.18** In this PS we are focusing on the FCA Handbook changes we consider necessary to reflect the direct application of the PRIIPs Regulation. To help firms plan for the new disclosure framework, subject to any future clarification the European Commission and/or the ESAs may provide, we are including some high-level comment on our current view of the application of the PRIIPs Regulation on some, but not all, of the issues that respondents raised.

### Impact of the PRIIPs Regulation on firms

**1.19** Many respondents wanted to establish what the scope and practical impact of the PRIIPs Regulation will be for them and asked us for further guidance or comment. A small number of respondents considered some of our proposed Handbook guidance superfluous. We accept that some firms may consider certain guidance on PRIIPs unnecessary. However, other firms were supportive. So, on reflection, we have decided that in addition to providing some clarification in this PS on the scope of the regulation, we will publish the Handbook guidance consulted on the CP with only a few amendments.

### Feedback on proposed Handbook changes

**1.20** The key points made by respondents to the CP were:

- Most respondents agreed with our proposals to amend or delete disclosure requirements in the FCA Handbook that would duplicate or conflict with the requirement to draw up and provide a PRIIPs KID.
- Most respondents agreed that firms may need to prepare and provide additional disclosure material to supplement the information in the KID, and supported the guidance we proposed in relation to this. For example, information required by the Solvency II Directive may need to be given separately to the KID. Further, if advice, consultancy or distribution costs apply and are not reflected in the KID, then persons advising on, or selling, the PRIIP will need to provide information detailing such costs,

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6 Five of these responses were confidential.

so the retail investor can understand the cumulative effect that these aggregate costs have on the return of the investment<sup>7</sup>.

- Most respondents agreed that firms should be able to, but not be required to, provide post-contractual documents in relation to PRIIPs. If provided, this disclosure would be in addition to the standalone KIDs that will need to be provided pre-sale<sup>8</sup>.

**1.21** In the CP we commented on how we see the disclosure requirements in the PRIIPs Regulation interacting with MiFID II. We do not propose to comment further on this interaction.

## Next steps

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### What do you need to do next?

**1.22** Firms will need to comply with the directly applicable PRIIPs Regulation and any revised disclosure rules in the FCA Handbook from 1 January 2018.

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<sup>7</sup> In the PRIIPs Regulation Article 8(3)(f) second paragraph it is anticipated that information detailing additional costs of distribution will be provided separately if not included in the KID.

<sup>8</sup> Unless a derogation applies – see PRIIPs Regulation Article 13(3).

## 2 Impact and scope of the PRIIPs Regulation and RTSs

- 2.1** In Chapter 2 of the CP we provided views on how the PRIIPs Regulation and related RTSs will affect firms and other persons in the UK. When it comes into effect, the PRIIPs Regulation will require firms to prepare, publish and provide a KID for each PRIIP manufactured. The regulation and related RTSs<sup>9</sup> (once agreed) will set out the form and content of the KID.
- 2.2** Each KID will need to be no more than three pages long and contain specified information, presented in a pre-determined sequence. Firms will need to give information about the PRIIP under sections entitled:
- What is this product?
  - What are the risks and what could I get in return?
  - What happens if [name of the PRIIP manufacturer] is unable to pay out?
  - What are the costs?
  - How long should I hold it and can I take money out early?
  - How can I complain?
  - Other relevant information.
- 2.3** As the PRIIPs Regulation is an EU regulation, it creates directly applicable legal requirements. So we will not transpose them into the FCA Handbook, but will refer to them.
- 2.4** In the CP we set out proposals to delete, amend or dis-apply certain Handbook rules which apply requirements that are either superseded by this regulation, or incompatible with it. In this PS we publish the final rules which will apply from 1 January 2018, when the PRIIPs Regulation comes into effect.

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<sup>9</sup> PRIIPs Regulation Article 8(5) requires the ESAs to develop draft RTSs for submission to the European Commission.



## What is a PRIIP, and what is not a PRIIP

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- 2.5** In the CP we explained that a PRIIP is a type of retail product that is defined in the PRIIPs Regulation in a way that makes the characteristics of the product the key consideration.
- 2.6** The regulation states that a PRIIP is an investment where, regardless of the legal form of the investment, the amount repayable to the retail investor is subject to fluctuations because of exposure to reference values or to the performance of one or more assets which are not directly purchased by the retail investor, or which is an insurance product that offers a maturity or surrender value that is wholly or partially exposed, directly or indirectly, to market fluctuations<sup>10</sup>.
- 2.7** Although it will often be clear when a product is, or is not, a PRIIP, we accept that identifying whether a particular product is a PRIIP may not always be straightforward. So, while accepting that interpreting this legislation is a matter for the courts, and may also be subject to further clarification by the ESAs or European Commission, in the CP we provided preliminary lists of products we considered caught, or not caught, by the definition. These lists were not definitive or complete, but we thought they were likely to be helpful to firms. Some respondents to the CP wanted us to clarify or expand on these lists, and some suggested including a wider range of products.
- 2.8** Following consideration of the points raised, and some further analysis, we are amending these lists slightly, as detailed below. Our comments may be amended or clarified further following any clarification from the European Commission and/or the ESAs that may be provided during 2017. Updated lists are provided in Annex 2.
- 2.9** A number of queries were raised which were not related to the rule and guidance changes proposed in the CP. Respondents raising these queries asked us to clarify the extent to which the PRIIPs Regulation applies to issues such as secondary markets, top-ups for existing products, and closed-book products. For now, unless we have considered it possible for us to comment on an issue, firms will need to exercise their own judgement on the extent to which their business models are affected by this legislation. We plan to discuss certain matters further with the ESAs and European Commission and may comment separately or consult on guidance if we consider it appropriate.

## Investment Trust Savings Schemes

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- 2.10** In the CP we indicated that investment trust savings schemes (ITSSs) that allow the shares or securities of investment trusts to be held in a managed account would be caught by the PRIIP definition. We also stated that the underlying investment trust securities held within an ITSS will be PRIIPs, and KIDs will need to be prepared and provided for these securities.
- 2.11** A number of respondents suggested that, in practice, ITSSs have characteristics that are more akin to a service than a product.

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10 PRIIPs Regulation, Article 4(1) and 4(2)

## Our response

Having considered the characteristics of investment trusts and ITSSs, we are revising the 'What is a PRIIP?' and 'What is not a PRIIP?' lists.

We take the view that, although securities in investment trusts acquired through an ITSS are likely to be PRIIPs for which a KID is required, the scheme itself will not be a PRIIP.

In our view, when a client invests in an investment trust (that is a PRIIP) through an ITSS, a KID will not need to be prepared and provided for the ITSS itself. Any costs associated with the ITSS will need to be disclosed separately to the KID, if not already reflected in the costs disclosed in the KID<sup>11</sup>.

## Individual Savings Accounts

- 2.12** A number of respondents pointed out that tax wrappers such as Individual Savings Accounts (ISAs)<sup>12</sup> within which an investor may hold both PRIIPs and 'non-PRIIPs', are not investment products in themselves but a tax wrapper around investments. It was suggested that, after the PRIIPs Regulation applies, investors should receive a PRIIPs KID for any relevant underlying investments, but should not need to be given a KID for the ISA tax wrapper in which the investment is held.

## Our response

Having considered the characteristics of ISAs we are updating the 'What is not a PRIIP?' list to include ISAs. ISAs provide specific national arrangements for the purpose of allowing tax advantaged saving/ investment. We take the view that an ISA itself is not an investment for the purposes of the PRIIPs definition and does not expose the retail investor to fluctuations based on exposure to reference values or to the performance of one or more assets that they have not directly purchased (the account holder retains beneficial ownership of any investments in an ISA). So, an ISA will not be a PRIIP for which a KID is required (although products held within an ISA may well be PRIIPs for which the ISA manager will need to provide the account holder with a KID in accordance with the Regulation). Also, when a client invests in a PRIIP within an ISA tax wrapper, any costs or charges associated with the provision of the ISA will need to be disclosed in a separate document, if not reflected in the costs disclosed in the KID<sup>13</sup>.

11 See COBS 6.1.9R

12 i.e. an account which is a scheme of investment satisfying the conditions prescribed in the Individual Savings Account Regulations 1998 (SI 1998/1870).

13 See COBS 6.1.9R

## Debentures and other debt securities

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- 2.13** We received feedback from the industry suggesting that debentures and other debt securities may have characteristics which mean they could be either a PRIIP or a non-PRIIP.

### Our response

Having considered the possible characteristics of debentures and other debt securities, in determining whether or not the PRIIPs Regulation applies, we agree that these investments and their characteristics should be considered on a case-by-case basis depending on whether the amount repayable to the retail investor is subject to fluctuations because of exposure to reference values or to the performance of one or more assets which are not directly purchased by the retail investor. So, we are updating the 'What is a PRIIP?' and 'What is not a PRIIP?' lists.

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## Venture Capital Investments

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- 2.14** One respondent noted that the CP inaccurately indicated that venture capital trusts (VCTs) were a type of unregulated collective investment scheme (UCIS).

### Our response

We agree with the respondent that VCTs are not UCIS (being bodies corporate that are not open-ended investment companies or limited liability partnerships, they are not collective investment schemes and hence not UCIS). However, given their characteristics, we do consider that most venture capital investments, including VCTs, will fall within the definition of a PRIIP. So, we have kept these venture capital investments on the list of products we consider to be PRIIPs.

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## Holloway Sickness Policies and similar

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- 2.15** One respondent asked whether or not Holloway Sickness policies, or other policies with 'low investment content', should be considered a PRIIP.

### Our response

Having further considered insurance-based investment policies with a low investment element, we remain of the view that, given their characteristics, they are likely to be caught by the current PRIIP definition. Where the value of the (small) investment element of these policies is subject, indirectly, to market fluctuations they will fall within scope. There is no requirement in the PRIIPs Regulation for the investment content to be above a minimum level.

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## Dealing, portfolio management and custody services

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- 2.16** A number of respondents discussed the position of firms that provide dealing and custody services, such as the provision of what were referred to as: discretionary managed portfolios (DMPs), investment portfolio accounts, centralised investment propositions that enable the investment in shares of one or more investment trust companies, and propositions that enable investment in one or more Alternative Investment Funds (AIFs) or other securities. They reasoned that the provision of these services did not amount to the provision of investment products. It was suggested that, after the PRIIPs Regulation applies, investors should receive a KID for each relevant underlying PRIIP. However, there should be no need to prepare a KID for the service itself, where that arrangement only facilitates the purchase, holding and selling of these investments.

### Our response

We consider that the provision of a service, if it allows retail investors to purchase, hold and sell investments as legal or beneficial owner, is unlikely, itself, to be a PRIIP. So although investments acquired through such services will often be PRIIPs, for which KIDs will need to be provided, in general the provision of the dealing, portfolio management or custody service will not be a PRIIP. We are therefore revising the 'What is not a PRIIP?' list.

Firms will need to carefully consider the characteristics of the services they offer to retail clients. They will need to assess whether there is any 'packaging' which intervenes between the retail investor and the investments, such that they might fall within the scope of the PRIIPs Regulation. In providing their service firms will also need to consider whether they have made changes to an existing PRIIP, and the extent to which any investments purchased or held using such services are PRIIPs for which a KID needs to be provided.

Any costs or charges associated with investment services provided will need to be disclosed separately, if not reflected in the costs disclosed in a KID<sup>14</sup>.

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## Alternative investment funds

- 2.17** Some respondents queried whether the alternative investment fund manager (AIFM) of an alternative investment fund (AIF) that is a PRIIP should be considered a PRIIP manufacturer in all cases, or whether there are instances when the AIF itself should be considered the PRIIP manufacturer.

### Our response

The PRIIPs Regulation refers to 'PRIIP manufacturers'<sup>15</sup> and lists examples of types of manufacturer, including fund managers. Given this, subject to consideration on a case-by-case basis and further clarification from the European Commission and/or the ESAs, an AIFM will often be considered the manufacturer of an AIF. However, it is possible for AIFs that have appointed an external AIFM to remain responsible for their own marketing, where they have suitable governance arrangements independent of the AIFM (such as a board of directors). In such cases the AIF may be regarded as its own PRIIP manufacturer, in which case it, rather than the AIFM, would be responsible for preparing, providing and publishing the relevant KID for retail clients. In such cases we would expect the AIFM, as part of its general duty to comply with conduct of business requirements, to ensure that the governing body of the AIF has put in place the necessary procedures for complying with the PRIIPs Regulation.

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<sup>14</sup> See COBS 6.1.9R

<sup>15</sup> See PRIIPs Regulation recital 12

## Use of MiFID II classification of retail clients

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- 2.18** One firm indicated that the use of the MiFID II definition for 'retail client' resulted in the early application of key MiFID II client classification requirements in relation to PRIIPs.

### Our response

We agree that the definition of 'retail investor' in the PRIIPs Regulation does refer to 'retail clients' as defined in MiFID II, but the Regulation does not implement MiFID II itself (it simply relies on definitions contained in the Directive). In any event, due to the application date of the PRIIPs Regulation being delayed to 1 January 2018, this regulation is closely aligned with the date MiFID II takes effect. So, firms will not need to make arrangements to apply the MiFID II definition of 'retail client' significantly before MiFID II takes effect. The client categorisation rules in the Handbook are proposed to be amended to transpose MIFID II with effect from 3 January 2018<sup>16</sup>.

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## How does the PRIIPs Regulation apply in relation to secondary markets, closed-book products, successive transactions and planned top-ups to investments that are PRIIPs?

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- 2.19** In responses to the CP, and other correspondence and queries, a number of issues relating to the interpretation of the regulation were raised.
- 2.20** The Regulation requires a PRIIP manufacturer to draw up a KID for each PRIIP before it is 'made available' to retail investors<sup>17</sup>. However, some respondents noted that the regulation does not expand on what 'made available' means in different circumstances.
- 2.21** Queries have also been raised about the extent to which PRIIPs traded on a securities exchange are being 'made available' to retail clients that may have access to that secondary market, and what obligations that might trigger.
- 2.22** Firms have also expressed uncertainty over whether an investment manufacturer will be obliged to prepare and provide a KID in relation to an investment which is not intended for retail investors, but which could be 'made available' via a secondary market the manufacturer has no control over (but to which a retail investor may have access).
- 2.23** Some firms highlighted that they would like more clarity on how the Regulation applies in relation to legacy or closed-book products that are no longer open to new retail investors, but which fall within the PRIIPs definition. There are no transitioning arrangements outlined.

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<sup>16</sup> See Chapter 4 of CP16/29 <https://www.fca.org.uk/publications/consultation-papers/cp16-29-mifid-ii-implementation>

<sup>17</sup> See PRIIPs Regulation Article 5(1)

- 2.24** The Regulation does not outline how it may apply to persons involved in a secondary market for legacy products that are PRIIPs, for which no KID has been prepared, but which it is currently possible to sell or assign to retail investors on a secondary market.
- 2.25** Some firms would like greater clarity as to how the Regulation may apply in relation to the re-investment of dividends or other income received on PRIIPs, or to the "top-up" of investments.

#### Our response

We are considering the appropriate approach for each of these areas under the current text of the PRIIPs Regulation and recognise that there are some areas of uncertainty for firms; particularly while level 2 and level 3 materials are not finalised. In our view, clarity on matters of this nature in relation to directly applicable EU legislation should ideally be provided by the European Commission or the ESAs. We continue to work with the ESAs and Commission and may comment further in a separate communication later this year.

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## 3 Disclosure framework in FCA Handbook – changes to reflect PRIIPs Regulation

- 3.1** To comply with the PRIIPs Regulation, unless an exemption applies, firms that manufacture PRIIPs will need to prepare standardised KIDs for any PRIIP they manufacture, and publish each KID on their website. Firms that distribute PRIIPs may also need to prepare and publish a KID, if the distributor makes changes to a PRIIP for the purpose of Article 4(4)(b) of the Regulation (as they will be considered a PRIIP manufacturer). Firms that give advice on or sell a PRIIP will need to provide a KID for that PRIIP.
- 3.2** Once the PRIIPs Regulation applies, to ensure we have a proportionate regulatory disclosure framework for firms that produce, give advice on, or sell PRIIPs, we considered existing disclosure provisions in: the Conduct of Business Sourcebook (COBS), Collective Investment Schemes Sourcebook (COLL), Investment Funds Sourcebook (FUND), Banking: Conduct of Business Sourcebook (BCOBS) and Prospectus Rules Sourcebook (PR). Many of these provisions are unaffected as they remain relevant outside the scope of the PRIIPs Regulation, remain relevant to UK UCITS schemes and EEA UCITS schemes, or relate to disclosure obligations under the Alternative Investment Fund Managers Directive (AIFMD). However, several provisions concerning pre-sale disclosure to retail investors will be affected.
- 3.3** So, in the CP, we proposed changes to the regulatory framework that will involve disclosure provisions being deleted, amended, maintained or extended slightly. Our aim is to ensure that there is minimal overlap and no conflict between the FCA Handbook and the PRIIPs Regulation requirements.
- 3.4** Where there were options, if we considered it in the interests of consumers, we proposed to maintain disclosure rules we considered outside the scope of the PRIIPs Regulation. So some rules will continue to apply and may require the provision of information in documents outside of the KID.
- 3.5** In one respect (the use of colour in disclosure documents), we proposed new guidance in the Handbook to apply a consistent approach to all firms, and not just firms subject to the PRIIPs Regulation. We considered this to be proportionate and in the interests of fair competition.



## Rules relating to information in KFDs and KFIs, and structured products

- 3.6** Firms are currently required to prepare and provide a key features document (KFD) and a key features illustration (KFI) for each 'packaged product' they produce, and to include specified information in these documents. The definition of a 'packaged product' includes products that will be PRIIPs, such as with-profits life policies, units in regulated collective investment schemes (CISs) and investment trust securities held within an ITSS. It also includes non-PRIIP products, namely pension schemes and some long-term insurance contracts.
- 3.7** In the CP we proposed to amend the application of the KFD and KFI disclosure rules<sup>18</sup> so they do not apply in relation to packaged products that are PRIIPs (including NURS<sup>19</sup>). In this PS we are making final rules so, after 1 January 2018, these pre-contract disclosure rules will no longer apply in relation to products that are PRIIPs. For PRIIPs, the KID will replace the requirement to produce KFDs and KFIs, and the RTSs will provide the methodology underpinning any presentation of risk and reward. However, rules that implement MiFID, AIFMD or the Prospectus Directive<sup>20</sup> (PD) and certain other rules which are outside the scope of the PRIIPs Regulation will continue to apply.
- 3.8** In relation to structured products, a current provision<sup>21</sup>, for practical reasons, removes the requirement for firms to produce a KFI when the return on the investment is linked by a pre-set formula to the performance of a specified asset or index or combination of assets or indices. As structured products will be PRIIPs for which a KID must be provided (instead of a KFI), this exemption is superfluous and so, as proposed, we will delete it.
- 3.9** As the underlying investment trust securities held within an ITSS will, in most cases, be PRIIPs for which KIDs will need to be prepared<sup>22</sup>, we consulted on the basis that we will not require firms to produce a KFD or KFI for ITSS<sup>23</sup>. We have made some changes to the instrument consulted on to make this clear<sup>24</sup>. As mentioned in the CP, in addition to any KIDs that will need to be provided for investment trust securities, firms will have the option of post-contractually producing a combined document regarding all the investments held within the ITSS<sup>25</sup>. Firms will also still need to comply with any relevant Handbook requirements which relate to the provision of information about their services.

18 COBS 13.1.1R, 13.1.3R and 14.2.1R

19 Although the requirement to produce a KFD currently applies in principle to a NURS, in practice we believe nearly all NURS managers produce either a simplified prospectus (under COBS 13.1.3R and COLL 4.6) or a NURS-KII document (where the manager has dispensation from the FCA in the form of a modification by consent, under which it may market units of the NURS on the basis of a NURS-KII document rather than a KFD or simplified prospectus - [www.the-fca.org.uk/modification-consent-cobs-and-coll?field\\_fcasf\\_sector=221&field\\_fcasf\\_page\\_category=unset](http://www.the-fca.org.uk/modification-consent-cobs-and-coll?field_fcasf_sector=221&field_fcasf_page_category=unset)).

20 Prospectus Directive 2003/71/EC

21 COBS 13.1.3R (3)(d)

22 Depending on its characteristics, it is possible that an investment trust security does not fall within the definition of a PRIIP.

23 See CP16/18 paragraph 3.13

24 See amendments to COBS 13.1.3R and COBS 14.2.7R

25 See CP16/18 paragraphs 3.53 to 3.55

- 3.10** One respondent argued for a continuation of the mandatory production of KFDs and KFI. One respondent suggested that firms may require guidance on how to display the optional personal projections. Most respondents supported our proposals to delete or amend the KFD or KFI disclosure requirements in COBS, so they no longer apply in relation to PRIIPs for which a KID must be prepared.

#### Our response

We accept that, in addition to the KID, firms may need to or choose to disclose other information<sup>26</sup>. To comply with EU law, and avoid duplication and confusion about the disclosure requirements applying to firms, we will delete or amend our rules as proposed (except as outlined above).

### Rules relating to NURS, s272-recognised schemes and qualified investor schemes

- 3.11** The proposals we outlined in the CP, in relation to disclosures for NURS, s272 schemes<sup>27</sup> and QIS, were either agreed with or not objected to. One respondent queried whether the title 'Non-UCITS retail scheme Key Investor Information' or 'Key Investor Information' must appear prominently at the top of a NURS-KII document, given the revision to our rules.

#### Our response

We will amend our Handbook provisions in relation to the disclosure required for NURS in line with the proposals in the CP. To make it easier for firms to understand the requirements of the form and content of the NURS-KII document we will include a modified version of the entire KII Regulation in COLL Appendix 2R, rather than the series of specific modifications we proposed in COLL 4.7.3AR. We will make some additional changes to the modified KII Regulation to ensure it is appropriate to a NURS, to replace certain words and phrases with their equivalent Glossary-defined terms where appropriate, and to refer specifically to the United Kingdom and the FCA instead of using generic wording. We will add a transitional provision in COBS to align with the transitional provision we proposed in COLL, so that both authorised fund managers and distributors can continue to use existing NURS-KII documents after 1 January 2018. Authorised fund managers that opt to produce a version of the NURS-KII document under the modified KII Regulation, rather than producing a KID, will have 35 working days from the end of 2017 to replace existing documents, in line with the time allowed to update a UCITS key investor information document.

<sup>26</sup> Firms should note PRIIPs Regulation, Article 9, which requires that marketing communications regarding PRIIPs should not contradict or diminish the significance of information in the KID.

<sup>27</sup> Non-UK retail schemes that have been individually recognised by the FCA under section 272 of the Financial Services and Markets Act 2000 (FSMA)

We will also amend our rules<sup>28</sup> to clarify that we require firms to put the words 'Non-UCITS retail scheme Key Investor Information' in a NURS-KII document (instead of 'Key Investor Information').

Firms will have the option to produce either a NURS-KII document or a KID for retail clients that invest in a NURS, and rules and definitions concerning the simplified prospectus and EEA simplified prospectus will be revoked<sup>29</sup>. We will amend the drafting to clarify that there is no obligation to provide either a KID or a NURS-KII document to a professional client investing in a NURS.

Firms will no longer need to prepare a KFD for a professional client sold a QIS.

The KID will not replace the NURS prospectus or QIS prospectus, so both a KID (or NURS-KII document if appropriate) and the relevant prospectus will need to be prepared for retail investors in NURS and QIS.

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## Rules and guidance relating to AIFs

- 3.12** In the CP we considered amendments to the disclosure requirements relevant to PRIIPs that are AIFs<sup>30</sup>. Where the PRIIP is an AIF, our rules will require firms to disclose required AIF information in either a scheme prospectus or in another disclosure document that will supplement the KID (or NURS-KII document). Except for the comments regarding AIFMs, discussed in paragraph 2.17, respondents either agreed with our proposals or had no comment on them.

### Our response

We will amend our rules to remove the need to provide a simplified prospectus or KFD for an AIF in line with the proposals in the CP. We will also include the guidance provisions we consulted on in relation to the interaction with existing disclosure requirements.

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## Third-country and non-UK issues

- 3.13** In the CP we explained how the requirements of the PRIIPs Regulation might apply to (a) third-country (non-EEA) manufacturers and distributors which make PRIIPs available to retail investors in the EEA and (b) EEA manufacturers and distributors producing PRIIPs for, and/or selling PRIIPs to, third-country (non-EEA) retail clients. Respondents either agreed with our approach or had no comment on this.

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28 COLL 4.7.2R

29 References to 'EEA simplified prospectus' and 'EEA simplified prospectus scheme' have been obsolete since the UCITS KIID was introduced.

30 See CP16/18 paragraph 3.35 to 3.38



### Our response

Subject to further clarification from the EU Commission and/or ESAs we have not altered our view in relation to third-country and non-EEA issues.

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## Interaction between the PRIIPs Regulation and the Prospectus Directive

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- 3.14** In the CP we proposed guidance in the Prospectus Rules Sourcebook (PR)<sup>31</sup>, which refers to the PRIIPs Regulation. Respondents welcomed this.

### Our response

We will include this guidance in our final rules.

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## Solvency II information

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- 3.15** In the CP we proposed guidance<sup>32</sup> to clarify that firms can provide any necessary Solvency II information in a KID or in another document. Respondents agreed with this approach.
- 3.16** A couple of respondents pointed out that this guidance, which refers to the fact that the Solvency II Directive information is required, was potentially contradicted by proposed guidance in other provisions<sup>33</sup>, which unintentionally indicated that Handbook provisions relating to the Solvency II Directive information did not apply in relation to PRIIPs. We agree with these comments.

### Our response

We will include the guidance in COBS 13.2.3G as proposed.

We will amend the guidance proposed in COBS 13.1.1A G (2) and COBS 14.2.-1G (2) so they accurately reflect that rules and guidance relating to the required Solvency II Directive information may apply in relation to PRIIPs.

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31 PR 1.1

32 COBS 13.2.3G

33 COBS 13.1.1AG (2) and COBS 14.2.-1G (2)

## Structured deposits

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- 3.17** In the CP we proposed to amend our Glossary definition of 'structured deposit' to align it with the definition in MiFID II. We also proposed new BCOBS guidance (in BCOBS 2) to refer to the relevance of the PRIIPs Regulation in relation to structured deposits. Respondents agreed with, or did not object to, this approach.
- 3.18** Since this CP was published we have consulted on rules and guidance to implement MiFID II in relation to structured deposits. In that consultation<sup>34</sup> we proposed guidance in BCOBS 1 (rather than BCOBS 2) to refer firms to the PRIIPs Regulation.

### Our response

So that all guidance on structured deposits is brought together in one place, we will not include guidance referring to the PRIIPs Regulation as part of the instrument accompanying this PS. Instead, guidance in BCOBS 1 is now proposed for inclusion in a separate instrument implementing MiFID II that will apply from 3 January 2018. The definition for 'structured deposit' will therefore be aligned as part of the MiFID II implementation.

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## Optional additional disclosure: personal projections and combined documents

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- 3.19** Current provisions<sup>35</sup> set out how firms must give 'standardised deterministic projections' which can be either 'generic projections' or 'personal projections'. The PRIIPs Regulation requires the presentation of performance scenarios<sup>36</sup>, but does not provide for personal projections that reflect the terms of a particular contract with, or to be offered to, a particular client.
- 3.20** In the CP we explained that we consider the provision of projections outside the KID to be compatible with the PRIIPs Regulation. As they may help improve investors' understanding of the potential outcomes relevant to them, we proposed that we would not require firms to produce such projections, but we would ensure our rules did not prevent firms from providing such projections, separate to the KID, if prepared in accordance with our rules on projections or future performance (as relevant)<sup>37</sup>.
- 3.21** One respondent did not think it was necessary to clarify that the option of projections outside the KID was open to firms. Three respondents thought this could be confusing to clients. Most respondents thought permitting personal projections, and giving firms flexibility over the format, could be helpful to consumers, and supported it. One respondent wondered whether a firm could be criticised for not being transparent if a personalised projection was not provided.

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<sup>34</sup> See [www.fca.org.uk/publication/consultation/cp16-43.pdf](http://www.fca.org.uk/publication/consultation/cp16-43.pdf)

<sup>35</sup> COBS 13.4, COBS 13.5 and COBS 13 Annex 2.

<sup>36</sup> See Article 8, Para 3(d).

<sup>37</sup> See COBS 13.5

- 3.22** In the CP we explained that we consider the post-contractual provision of combined documents (detailing information on more than one product) to be outside the scope of the PRIIPs Regulation. Further, if they help improve investors' understanding of the potential outcomes relevant to them, firms may choose to provide information post-contractually, separate to the KID, that combines information about several products (such as where products are accessed via a platform service).

### Our response

Given the considerations that have been raised in relation to personalised projections, we will consult on our approach later this year.

As proposed, firms may choose to provide post-contractual combined documents in relation to one or more PRIIPs, in addition to the standalone KIDs that will be required. If provided, any such combined documents will need to comply with all other relevant rules, including the requirement to be fair, clear and not misleading.

When providing information in marketing communications, such as direct offer financial promotions, firms will need to consider the impact of Article 9 of the PRIIPs Regulation. This requires that marketing communications that contain specific information relating to PRIIPs shall not include any statement that contradicts or diminishes the significance of information in the KID.

## Information on adviser charges

- 3.23** Firms are required, if relevant, to provide information on the likely effect of facilitating payment of a new or increased adviser charge from an in-force packaged product<sup>38</sup>. We consider this requirement to be relevant in relation to products that are PRIIPs, so a client can understand the effect of adviser or consultancy charges on a PRIIP investment. In the CP we proposed to clarify that these disclosure requirements remain applicable in relation to facilitation arrangements affecting both new and in-force packaged products, including those that are PRIIPs.
- 3.24** A couple of respondents queried the guidance regarding how the adviser and consultancy charges should be disclosed for non-PRIIP packaged products.

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38 COBS 13.6.1R and COBS 14.2.1CR

### Our response

Firms will need to provide information on the likely effect of facilitating payment of a new or increased adviser charge from a new or in-force PRIIP.

In relation to new non-PRIIP packaged products (such as personal pension schemes and stakeholder pension schemes), we will amend the proposed guidance<sup>39</sup> to clarify that, where a firm facilitates the payment of an adviser or consultancy charge for a non-PRIIP packaged product, it will satisfy the disclosure requirements by providing the appropriate charges information in a key features illustration.

## Guidance on firms' use of colours

- 3.25** The PRIIPS Regulation imposes a specific requirement<sup>40</sup> on firms to use colours that do not diminish the comprehensibility of the information, if the KID is printed or photocopied in black and white. As explained in the CP, we considered this provision to be something that should apply in relation to disclosure for both PRIIPs and non-PRIIP packaged products. So we proposed guidance<sup>41</sup> to clarify that firms should ensure their disclosure documents use colours that can be printed or photocopied in black and white without diminishing comprehensibility.
- 3.26** Most respondents considered this a sensible approach. One respondent asked whether the guidance applied to all client communications, or just mandatory disclosure documents. Another respondent made a similar point and suggested that, if the guidance applied to all documents, the costs could be more than minimal for firms.

### Our response

We intended that this guidance (suggesting to firms that the use of colour in a document should not diminish or obscure important information when printed in black and white) only applies to disclosure documents. To make it clear that the guidance does not apply more widely to all client communications, we will not include the proposed guidance in COBS 4, and will only apply the guidance proposed in COBS 13.2 (Product information: production standards, form and contents).

<sup>39</sup> See COBS 13.6.2G and COBS 14.2.1D G

<sup>40</sup> PRIIPs Regulation Article 6(5)

<sup>41</sup> COBS 4.5.2A G and COBS 13.2.1A G(3)



## Consequential amendments and modification of the general application rule

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- 3.27** Respondents did not object to our approach in relation to the consequential amendments and general application rule amendment proposed.

### Our response

We will amend these provisions as proposed.

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## 4 Feedback to our cost benefit analysis

- 4.1** In the CP we provided a cost benefit analysis (CBA) of how the proposals would affect firms and consumers. We have not updated this analysis as the instrument in this PS, which sets out final rules and guidance, does not differ significantly from the version in the CP.
- 4.2** Most firms had no comments on the costs of FCA provisions, but a number had comments on the costs of the PRIIPs Regulation. Without the benefit of full consumer testing, which we had not provided, one firm disagreed with our view that the KID should provide consumers with equivalent or improved information when compared to the existing disclosure documents that would no longer be given.
- 4.3** One firm considered that the CBA underestimated the benefits of the proposal to allow the preparation and provision of NURS-KII documents. They argued that, without this flexibility, the costs of implementing regular savings changes, and the negative impact on regular savings clients, would be even higher.
- 4.4** The other main comments on costs are mentioned below.

### Cost of preparing and providing the KID

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- 4.5** A number of firms commented on the costs that firms will face as a result of needing to comply with the PRIIPs Regulation.

#### Our response

Although we accept that the cost of producing and providing a KID will be significant for many firms, because it is directly applicable EU legislation the costs involved in complying with the regulation were not considered in the CP. The CP focused only on the costs involved in complying with the revised FCA provisions.

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## Guidance on use of colours

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- 4.6** One respondent noted that the cost of checking that colour documents could be printed in black and white and remain legible could be more than minimal.

### Our response

We do not accept that the cost of checking that colour documents can be printed in black and white and remain legible will be more than minimal. The instrument accompanying this PS has been amended so it is clear that the guidance only applies to certain disclosure documents that firms are required to produce under COBS 13.

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## Annex 1

# List of non-confidential respondents

3i Investments plc

Aegon UK

Association of British Insurers (ABI)

The Association of Investment Companies (AIC)

Association of Financial Mutuals (AFM)

Association of Professional Financial Advisers (APFA)

Brian Shearing and Partners Limited

Capita Insurance & Benefits Services

City of London Law Society (CLLS)

Euronext

Institute and Faculty of Actuaries

Investment Association (IA)

Investment & Life Assurance Group Ltd (ILAG)

Joint Associations Committee on Retail Structured Products (JAC)

Legal & General Group plc

OAC plc

Oxford Capital Partners LLP

The Prudential Assurance Company Limited

Standard Life plc

St. James Place Wealth Management

threesixty Services LLP

Wealth Management Association (WMA)

Zurich UK Life

## Annex 2

# Lists of products that FCA considers to be PRIIPs or non-PRIIPs

The following lists are subject to any clarification that the European Commission or ESAs may provide. The lists are not considered definitive or complete. Products may fall within one or more of the categories listed

### Categories of products likely to fall within the PRIIPs definition

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- 1.** regulated collective investment schemes (CISs) that are:
  - a.** non-UCITS retail schemes (NURs) (authorised unit trusts, open-ended investment companies and authorised contractual schemes)
  - b.** qualified investor schemes (QISs) (same types as (a))
  - c.** individually recognised overseas schemes (FSMA s272 recognised schemes)
- 2.** unregulated CISs that are alternative investment funds, including, but not limited to:
  - a.** some unauthorised unit trust schemes
  - b.** private equity schemes
- 3.** unregulated CISs that are not alternative investment funds
- 4.** alternative investment funds that are not CISs, including shares or units in:
  - a.** an investment company or an investment trust,
  - b.** venture capital investments
  - c.** European Social Entrepreneurship Funds (EuSEFs)
  - d.** European Venture Capital Funds (EuVECAs)
- 5.** insurance-based investment products such as unit-linked policies, with-profits policies and Holloway sickness policies
- 6.** fluctuating return annuities (that are not pension products) with features that result in fluctuating amounts being paid to the annuitant because of exposure to reference values (such as indices) or to the performance of one or more assets which are not directly purchased by the annuitant (e.g. purchased life annuities with variable returns)

7. derivatives: options, futures, and contracts for differences
8. structured investment products (whatever their form); for example, these may be structured as unregulated CISs, convertible securities, insurance policies or instruments issued by special purpose vehicles (SPVs)
9. structured deposits (as defined in MiFID II, Article 4(1)(43))
10. securities issued by certain special purpose vehicles (SPVs) or special purpose entities (SPEs) with variable returns (e.g. convertible securities that may convert from equity to debt securities)
11. debt securities (bonds, notes or debentures) where the amount repayable is subject to fluctuations because of exposure to reference values or to the performance of one or more assets which are not directly purchased by the investor

### Categories of products or services which are not likely to fall within the PRIIPs definition

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1. non-life insurance/general insurance<sup>42</sup>, and life insurance that only pays benefits on death or incapacity due to injury sickness or infirmity (i.e. products that have no surrender value, or a surrender value that does not depend on fluctuations in the performance of one or more underlying assets or reference values)
2. deposits (other than structured deposits<sup>43</sup> as defined in MiFID II)
3. assets that are held directly by the retail investor, such as corporate shares or sovereign bonds<sup>44</sup>
4. pension products<sup>45</sup> – pensions that are recognised under national law as having the primary purpose of providing the investor with an income in retirement (including pension annuities purchased using monies from a pension product recognised under UK law), occupational pension schemes<sup>46</sup>, and individual pension products for which a financial contribution from the employer is required by national law and where the employer or the employee has no choice as to the pension product or provider
5. fixed annuities (that are not pension products) where the amount payable to the annuitant does not fluctuate (e.g. a purchased life annuity that pays a fixed amount of income for life or an annuity that pays a fixed income for a specified term)
6. debentures and other debt securities where amount repayable to the retail investor is fixed

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42 Non-life insurance products listed in Annex 1 (Classes of non-life insurance) of Directive 2009/138/EC are specifically excluded by PRIIPs Regulation, Article 2(2)(a).

43 MiFID II recital 39 clarifies that structured deposits are a form of investment and do not include deposits linked solely to interest rates, such as Euribor or Libor, regardless of whether or not the interest rates are predetermined, or whether they are fixed or variable; therefore, such deposits are excluded from the scope of the PRIIPs Regulation.

44 See PRIIPs Regulation, recital 7. We consider that this includes holding such assets in dematerialised form through nominee accounts.

45 Pension products are excluded from the scope of the PRIIPs Regulation, Article 2(2)(e).

46 Official recognised occupational pension schemes within the scope of Directive 2003/41/EC (Occupational Pension Funds) or Directive 2009/138/EC (Solvency II).



7. certain securities such as, subject to certain conditions, securities issued by Member States, their regional or local authorities, central banks, public international bodies, non-profit making bodies or credit institutions
8. investment trust savings schemes that are dealing services dedicated to the securities of one of more investment trusts
9. ISA (individual savings accounts) wrappers<sup>47</sup> (although investments held within an ISA wrapper may be PRIIPs for which a KID is required)
10. dealing/custody services which allows retail investors to purchase, hold and sell investments as legal or beneficial owner

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<sup>47</sup> i.e. an account which is a scheme of investment satisfying the conditions prescribed in the Individual Savings Account Regulations 1998 (SI 1998/1870).

## Annex 3

### Abbreviations used in this paper

<b>AIF</b>	Alternative investment fund
<b>AIFM</b>	Alternative investment fund manager
<b>AIFMD</b>	Alternative Investment Fund Managers Directive
<b>BCOBS</b>	Banking: Conduct of Business Sourcebook
<b>CBA</b>	Cost benefit analysis
<b>CIS</b>	Collective Investment Scheme
<b>COBS</b>	Conduct of Business Sourcebook
<b>COLL</b>	Collective Investment Schemes Sourcebook
<b>CP</b>	Consultation Paper
<b>DEPP</b>	Decision Procedure and Penalties manual
<b>DMP</b>	Discretionary managed portfolio
<b>EEA</b>	European Economic Area
<b>EG</b>	Enforcement Guide
<b>ESAs</b>	European Supervisory Authorities
<b>EU</b>	European Union
<b>EuSEF</b>	European Social Entrepreneurship Fund
<b>EuVECA</b>	European Venture Capital Fund
<b>FCA</b>	Financial Conduct Authority
<b>FSMA</b>	Financial Services and Markets Act 2000
<b>FUND</b>	Investment Funds Sourcebook
<b>ICVC</b>	Investment company with variable capital
<b>ISA</b>	Individual Savings Account

<b>ITSS</b>	Investment Trust Savings Scheme
<b>KFD</b>	Key Features Document
<b>KFI</b>	Key Features Illustration
<b>KID</b>	Key Information Document
<b>KII</b>	Key Investor Information
<b>KIID</b>	Key Investor Information Document
<b>MiFID</b>	Markets in Financial Instruments Directive
<b>MiFID II</b>	Markets in Financial Instruments Directive (recast)
<b>NURS</b>	Non-UCITS retail scheme
<b>NURS-KII</b>	Non-UCITS retail scheme-key investor information
<b>PD</b>	Prospectus Directive
<b>PR</b>	Prospectus Rules Sourcebook
<b>PRIIP</b>	Packaged Retail and Insurance-based Investment Product
<b>PS</b>	Policy Statement
<b>QIS</b>	Qualified Investor Scheme
<b>RTSs</b>	Regulatory Technical Standards



<b>SPEs</b>	Special purpose entities
<b>SPVs</b>	Special purpose vehicles
<b>UCIS</b>	Unregulated collective investment scheme
<b>UCITS</b>	Undertakings for collective investment in transferable securities
<b>UK</b>	United Kingdom
<b>VCT</b>	Venture capital trust

We have developed the policy in this policy statement in the context of the existing UK and EU regulatory framework. The Government has made clear that it will continue to implement and apply EU law until the UK has left the EU. We will keep the proposals under review to assess whether any amendments may be required in the event of changes in the UK regulatory framework in the future.

We make all responses to formal consultation available for public inspection unless the respondent requests otherwise. We will not regard a standard confidentiality statement in an email message as a request for non-disclosure.

Despite this, we may be asked to disclose a confidential response under the Freedom of Information Act 2000. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by the Information Commissioner and the Information Rights Tribunal.

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# Appendix 1

## Made rules (legal instruments)

**PACKAGED RETAIL AND INSURANCE-BASED INVESTMENT PRODUCTS  
REGULATION INSTRUMENT 2017**

**Powers exercised**

- A. The Financial Conduct Authority makes this instrument in the exercise of the following powers and related provisions in:
- (1) the Financial Services and Markets Act 2000 (the “Act”):
    - (a) section 137A (The FCA’s general rules);
    - (b) section 137R (Financial promotion rules);
    - (c) section 137T (General supplementary powers);
    - (d) section 139A (Power of the FCA to give guidance);
    - (e) section 247 (Trust scheme rules);
    - (f) section 248 (Scheme particular rules);
    - (g) section 261I (Contractual scheme rules);
    - (h) section 261J (Contractual scheme particular rules); and
    - (i) section 274 (Application for recognition of individual schemes); and
  - (2) regulation 6(1) of the Open-Ended Investment Companies Regulations 2001 (SI 2011/1228).
- B. The rule-making powers listed above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Act.

**Commencement**

- C. This instrument comes into force on 1 January 2018.

**Amendments to the Handbook**

- D. The modules of the FCA’s Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2).

(1)	(2)
Glossary of definitions	Annex A
General Provisions (GEN)	Annex B
Conduct of Business sourcebook (COBS)	Annex C
Supervision manual (SUP)	Annex D
Collective Investment Schemes sourcebook (COLL)	Annex E
Investment Funds sourcebook (FUND)	Annex F
Prospectus Rules sourcebook (PR)	Annex G

## Notes

- E. In the Annexes to this instrument, the “notes” (indicated by “**Note:**”) are included for the convenience of readers but do not form part of the legislative text.

## Citation

- F. This instrument may be cited as the Packaged Retail and Insurance-based Investment Products Regulation Instrument 2017.

By order of the Board  
27 April 2017

## Annex A

### Amendments to the Glossary of definitions

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

Insert the following new definitions in the appropriate alphabetical position (this text is not underlined).

<i>key information document</i>	a <i>document</i> that is drawn up for a <i>PRIIP</i> in accordance with the <i>PRIIPs Regulation</i> .
<i>KII-compliant NURS</i>	a <i>non-UCITS retail scheme</i> where the <i>authorised fund manager</i> or <i>ICVC</i> has prepared a <i>NURS-KII document</i> instead of a <i>key information document</i> .
<i>non-PRIIP packaged product</i>	a <i>packaged product</i> other than a <i>packaged retail and insurance-based investment product (PRIIP)</i> .
<i>NURS-KII document</i>	a <i>document</i> prepared for a <i>retail client</i> in a <i>non-UCITS retail scheme</i> which contains the <i>key investor information</i> required by <i>COLL 4.7.2R</i> (Key investor information).
<i>packaged retail and insurance-based investment product</i>	<p>a product that is:</p> <ol style="list-style-type: none"> <li>(1) a packaged retail and insurance-based investment product within the meaning of article 4(3) of the <i>PRIIPs Regulation</i>; and</li> <li>(2) not exempt from the application of the <i>PRIIPs Regulation</i> under articles 2(2) or 32 thereof.</li> </ol>
<i>PRIIP</i>	a <i>packaged retail and insurance-based investment product</i> .
<i>PRIIPs Regulation</i>	Regulation (EU) No 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products (PRIIPs). <a href="http://data.europa.eu/eli/reg/2014/1286/oj">http://data.europa.eu/eli/reg/2014/1286/oj</a>

Amend the following definitions as shown.

<i>Holloway policy special application conditions</i>	<p>conditions that will be met by a <i>firm</i> where:</p> <ol style="list-style-type: none"> <li>(a) in the case of a <i>firm</i> which underwrites <i>Holloway sickness policies</i>: <ol style="list-style-type: none"> <li>(i) all of the <i>Holloway sickness policies</i> of a particular type underwritten by the <i>firm</i> show a projected maturity</li> </ol> </li> </ol>
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value of not more than 20% of accumulated *premiums* at the mid-rate projection in the *key features illustrations* prepared for the purposes of COBS 13.1.1R(2) (or would have shown such a projected maturity value but for the fact that no *key features illustrations* are required to be prepared because the *Holloway sickness policies* are *PRIIPs* and to which COBS 13.1.1R(2) does not therefore apply); except that no more than 5% of the relevant *Holloway sickness policies* underwritten by the *firm* may show a projected maturity value of between 20% and 25% of accumulated *premiums* at the mid-rate projection in the *key features illustrations* prepared for the purposes of COBS 13.1.1R(2) (or which would have been prepared but for the fact that such *Holloway sickness policies* are *PRIIPs*);

...

...

*key investor  
information*

- (1) (for a *UCITS*) key information for investors on the essential elements of a *UCITS scheme* or *EEA UCITS scheme*, as detailed in article 78 of the *UCITS Directive* and in the *KII Regulation*;
- (2) (for a *non-UCITS retail scheme*) key information for investors on the essential elements of a *KII-compliant NURS* as detailed in COLL 4.7.2R (Key investor information).

*key investor  
information document*

a short *document* containing *key investor information* for investors in a *UCITS scheme* on the essential elements of ~~a *UCITS*~~ the *scheme*, as detailed in COLL 4.7.2R (Key investor information).

Delete the following definitions. The text is not shown struck through.

*EEA simplified  
prospectus*

a marketing *document* which meets the requirements of Article 28 of the UCITS Directive (No 85/611/EEC) (as at 30 June 2011).

*EEA simplified  
prospectus scheme*

an *EEA UCITS scheme* which is a *recognised scheme* under section 264 of the *Act* (Schemes constituted in other EEA States) and which is permitted by the laws and regulations of its *Home State* to market its *units* on the basis of an *EEA simplified prospectus*.

*key features scheme*

a *scheme* that is not:

- (a) a *UCITS scheme* or an *EEA UCITS scheme*;
- (b) a *qualified investor scheme*; or

- (c) a recognised scheme under section 264 of the *Act* (Schemes constituted in other EEA States).

<i>simplified prospectus</i>	a marketing <i>document</i> containing information about a <i>simplified prospectus scheme</i> , which complies with <i>COLL</i> 4.6.2R (Production and publication of simplified prospectus) and <i>COLL</i> 4.6.8R (Table: Contents of the simplified prospectus).
<i>simplified prospectus scheme</i>	a <i>key features scheme</i> in respect of which a <i>simplified prospectus</i> has been, or will be, produced instead of a <i>key features document</i> (see <i>COBS</i> 13.1.3R(2)).

**Annex B****Amendments to the General Provisions (GEN)**

In this Annex, underlining indicates new text.

**4 Statutory status disclosure**

...

**4.2 Purpose**

...

- 4.2.2 G There are other pre-contract information requirements outside this chapter, including:

...

(2A) for PRIIPs, a requirement under the PRIIPs Regulation to provide retail investors (as defined in that Regulation) with a key information document;

...



## Annex C

### Amendments to the Conduct of Business sourcebook (COBS)

In this Annex, underlining indicates new text and striking through indicates deleted text.

## 1 Application

...

### 1 Annex 1 Application (see COBS 1.1.2R)

Part 1: What?

Modifications to the general application rule according to activities

...		
<b><u>8.</u></b>	<b><u>PRIIPs Regulation</u></b>	
<u>8.1</u>	<u>R</u>	<u>The <i>general application rule</i> is modified so that a <i>firm</i> will not be subject to <i>COBS</i> to the extent that it would be contrary to the <i>United Kingdom's</i> obligations in respect of the <i>PRIIPs Regulation</i>.</u>

...

## 4 Communicating with clients, including financial promotions

...

### 4.6 Past, simulated past and future performance

...

Past performance

...

4.6.4B G ...

- (2) This *guidance* does not apply to a *prospectus*, *key investor information document* or ~~*simplified prospectus*~~ *NURS-KII document* drawn up in accordance with *COLL*.

...

### 4.7 Direct offer financial promotions

...

Guidance

...

- 4.7.3 G (1) ...
- (2) A firm communicating or approving a direct offer financial promotion may also be subject to:
- (a) the *rules* on providing product information in COBS 14.2, including the exceptions in COBS 14.2.5R to 14.2.9R; and
- (b) the requirement in the PRIIPs Regulation to provide a key information document.
- 4.7.4 G In order to enable a *client* to make an informed assessment of a *relevant investment* or *relevant business*, a *firm* may wish to include in a *direct offer financial promotion*:
- ...
- (3) (in relation to a promotion for a ~~packaged product~~ non-PRIIP packaged product that is not a *financial instrument*) a *key features illustration*, in which a *generic projection* may generally be used.

...

## 4.13 UCITS

### Application

- 4.13.1 R ...
- (2) This section does not apply to:
- (a) ...
- (b) the *instrument constituting the fund*, the *prospectus*, the *key investor information* (~~or alternatively the simplified prospectus or EEA simplified prospectus~~) or the periodic reports and accounts of either a *UCITS scheme* or an *EEA UCITS scheme*.

...

...

## 6 Information about the firm, its services and remuneration

...

### 6.4 Disclosure of charges, remuneration and commission

...

## Disclosure of commission (or equivalent) for packaged products

6.4.3 R ...

(4) This *rule* does not apply if:

...

- (c) the *firm* provides the *client* with a *key features document*, a ~~*simplified prospectus*~~, a *key investor information document* or ~~an~~ an EEA key investor information document or a NURS-KII document, in accordance with COBS 14, provided that the *firm* discloses to the *client* the actual amount or value of *commission* or *equivalent* within five *business days* of effecting the transaction.

...

...

**6 Annex 6E Calculating commission equivalent**

This table forms part of COBS 6.4.6E.

Calculating commission equivalent		
...		
	Part C: Services	
...		
7.	The following costs should be excluded:	
	...	
	(c)	costs of developing and maintaining computer systems for the provision of <i>projections</i> of benefits, <i>client-specific key features documents</i> , <del><i>simplified prospectuses</i></del> or other product information;
	...	
...		

...

**13 Preparing product information****13.1 The obligation to prepare product information**Non-PRIIP packaged products, cash-deposit ISAs and cash-deposit CTFs

13.1.1 R A *firm* must prepare:

- (1) a *key features document* for each ~~*packaged product*~~ *non-PRIIP packaged product*, *cash-deposit ISA*, *cash-only lifetime ISA* and *cash-deposit CTF* it produces; and
- (2) a *key features illustration* for each ~~*packaged product*~~ *non-PRIIP packaged product* it produces;

in good time before those *documents* have to be provided.

#### PRIIPs

13.1.1A G (1) The *PRIIPs Regulation* requires the manufacturer of a *PRIIP* to draw up a *key information document* in accordance with the *PRIIPs Regulation* before that *PRIIP* is made available to retail investors (as defined in the *PRIIPs Regulation*).

**[Note: article 5 of the *PRIIPs Regulation*]**

- (2) Since the *PRIIPs Regulation* imposes directly applicable requirements in relation to the preparation of product information for *PRIIPs*, the rules in *COBS* 13.1 to *COBS* 13.4 do not apply to a *firm* in relation to the manufacture of a *PRIIP* (except where applicable to *Solvency II Directive* information). *COBS* 13.5 and *COBS* 13.6 continue to apply where relevant.

#### Application of the *PRIIPs* regulation to funds

- 13.1.1B G (1) A *UCITS* management company is exempt from the *PRIIPs Regulation* until 31 December 2019 (see article 32(1) of the *PRIIPs Regulation*). These *firms* should continue to publish a *key investor information document* until that date (see *COLL* 4.7).
- (2) (a) A manager of a *fund* offered to retail investors, other than a *UCITS*, is able to benefit from this exemption where a Member State applies rules on the format and content of the *key investor information document* in articles 78 to 81 of the *UCITS Directive* to that *fund* (see article 32(2) of the *PRIIPs Regulation*).
  - (b) The *FCA* has made rules for authorised fund managers of non-*UCITS* retail schemes to give them the choice of benefiting from this exemption (see *COLL* 4.7).
  - (c) An authorised fund manager of a non-*UCITS* retail scheme offered to retail clients may, until 31 December 2019, draw up either:
    - (i) a *key information document* in accordance with the *PRIIPs Regulation*; or

(ii) a NURS-KII document.

Information on life policies

13.1.2 R ...

13.1.2A G A firm that effects life policies which are also PRIIPs should consider whether it is also required to draw up a key information document in respect of those life policies in accordance with the requirements of the PRIIPs Regulation.

Exceptions

13.1.3 R A firm is not required to prepare:

...

(2) a key features document for:

- (a) a unit in a UCITS scheme or a simplified prospectus scheme regulated collective investment scheme; or
- (b) a unit in an EEA UCITS scheme which is a recognised scheme; or [deleted]
- (c) a unit in a key features scheme, if it prepares a simplified prospectus, or the information appears with due prominence in another document, instead; or [deleted]
- (d) a stakeholder pension scheme, or personal pension scheme that is not a personal pension policy, if the information appears with due prominence in another document; or
- (e) an interest in an investment trust savings scheme; or

(3) a key features illustration:

- (a) for a unit in a UCITS scheme or a simplified prospectus scheme regulated collective investment scheme; or
- (b) for a unit in an EEA UCITS scheme which is a recognised scheme; or [deleted]
- (c) if it includes the information from the key features illustration in a key features document; or
- (d) for a packaged product which, at the end of its fixed term, provides for the return of the initial capital invested and a specified level of growth linked by a pre-set formula to the performance of a specified asset or index or a combination of assets or indices. [deleted]

(e) for an interest in an investment trust savings scheme.

...

- 13.1.4 R ~~A single document prepared for more than one key features scheme or simplified prospectus scheme may combine more than one key features document, simplified prospectus or EEA simplified prospectus or any combination of them, if the schemes are offered through a platform service and the document clearly describes the difference between the schemes.~~  
[deleted]

## 13.2 Product information: production standards, form and contents

...

- 13.2.1A G When a firm prepares documents or information for a life policy, personal pension or stakeholder pension in accordance with this chapter, the firm should:

...

- (2) taking into account the means of printing or display, consider whether the following can be used to improve the *client's* understanding of the product, in particular:

...

- (b) the type size, line width, line spacing, and use of white space;  
and

- (3) ensure that the use of colour in a document does not disguise, diminish or obscure important information if that document is printed or photocopied in black and white.

...

- 13.2.3 G The Solvency II Directive information can be included in one or more of a key features document, a key features illustration, (where permitted by the PRIIPs Regulation) a key information document or any other document.

...

## 13.3 Contents of a key features document

...

Additional requirements for ~~packaged products~~ non-PRIIP packaged products

- 13.3.2 R Table

<p><i>A key features document for a <del>packaged product</del> <u>non-PRIIP packaged product</u> must:</i></p>
...

#### Money market funds

- 13.3.3 R *A key features document for a short term money market fund, a money market fund or a qualifying money market fund must include a statement identifying it as such a fund and a statement that the ~~authorised fund's~~ investment objectives and policies will meet the conditions of the definition of short term money market fund, money market fund or qualifying money market fund, as appropriate. [deleted]*

#### Feeder NURS

- 13.3.4 R *A key features document for a feeder NURS must include:*
- (1) *a statement identifying it as such a scheme;*
  - (2) *information specific to the feeder NURS and its ~~qualifying master scheme~~ which enables investors to understand the ~~qualifying master scheme's~~ key particulars; and*
  - (3) *a description and explanation of any material differences between the risk profile of the feeder NURS and that of the ~~qualifying master scheme~~. [deleted]*
- 13.3.5 G *When producing the key features document, the authorised fund manager of the feeder NURS should have due regard to the provisions in COLL 4.6.8R (Contents of the simplified prospectus) in terms of additional information appropriate to a feeder NURS and its ~~qualifying master scheme~~. In particular, the appropriate charges information required by COBS 13.4.1R and COBS 13 Annex 3 (Charges) should represent the aggregate of the charges of the feeder NURS and its ~~qualifying master scheme~~ as disclosed in the feeder NURS' most up to date prospectus. [deleted]*

### 13.4 Contents of a key features illustration

- 13.4.1 R *A key features illustration must include appropriate charges information, information about any interest that will be paid to clients on money held within a personal pension scheme bank account and, if it is a ~~packaged product~~ non-PRIIP packaged product which is not a financial instrument:*

...

...

### 13.6 Preparing product information: ~~changes to~~ adviser and consultancy charges

13.6.1 R A *firm* that agrees to ~~start facilitating~~ facilitate the payment of an *adviser charge* or *consultancy charge*, or an increase in such a charge, from ~~an~~ a new or in-force packaged product, must prepare sufficient information for the *retail client* to be able to understand the likely effect of that facilitation, in good time before it takes effect.

13.6.2 G Where a *firm* agrees to facilitate the payment of an *adviser charge* or *consultancy charge* for a new *non-PRIIP packaged product*, it will satisfy the rule in COBS 13.6.1R by including the *appropriate charges information* in the *key features illustration*.

...

### 13 Annex 3 **Charges information for a ~~packaged product~~ non-PRIIP packaged product**

(except for a personal pension scheme and a stakeholder pension scheme where adviser charges or consultancy charges are to be facilitated by the product)

This annex belongs to COBS 13.4.1R (Contents of a key features illustration)

...

2.2 The effect of charges table:

...

(2) for any other ~~packaged product~~ non-PRIIP packaged product must be in the following form:

...

...

## 14 **Providing product information to clients**

### 14.1 **Interpretation**

14.1.1 R In this chapter:

(1) ...

(2) (except in relation to the requirements under the *PRIIPs Regulation*) 'sell' includes 'sell, personally recommend or arrange the sale of' in relation to a *designated investment* and equivalent activities in relation to a *cash-deposit ISA*, *cash-only lifetime ISA* and *cash-deposit CTF*.

### 14.2 **Providing product information to clients**

Providing information about PRIIPs



- 14.2.-1 G (1) The PRIIPs Regulation requires a person who advises on, or sells, a PRIIP to provide a retail investor (as defined in the PRIIPs Regulation) with the key information document for that PRIIP.
- [**Note:** article 13 of the *PRIIPs Regulation*]
- (2) Since the PRIIPs Regulation imposes directly applicable requirements in relation to the provision of information about PRIIPs, this chapter does not apply to a firm when it is advising on, or selling, a PRIIP (except where applicable to Solvency II Directive information).
- (3) A firm that sells a life policy that is also a PRIIP must provide the Solvency II Directive information, as required by COBS 14.2.1R(2). Some or all of this information may be included in a key information document if this is required to be provided by, and such inclusion is permitted under, the PRIIPs Regulation.

The provision rules for products other than PRIIPs

- 14.2.1 R A firm that sells:
- (1) ~~a packaged product~~ non-PRIIP packaged product to a retail client, must provide a key features document and a key features illustration to that client (unless the packaged product is a unit in a *UCITS scheme, simplified prospectus scheme or an EEA UCITS scheme which is a recognised scheme regulated collective investment scheme*);
- ...
- (5) ~~a unit in a simplified prospectus scheme to a client, must offer the scheme's current simplified prospectus to that client. In addition, if the client is a retail client present in the EEA, the firm must provide the simplified prospectus to the client together with:~~
- (a) ~~enough information for the client to be able to make an informed decision about whether to hold the units in a wrapper (if the units will, or may, be held in that way); and~~
- (b) ~~information about the three types of CTF that are generally available (stakeholder CTFs, cash deposit CTFs and security-based CTFs), and the type of CTF the firm is offering (if the units will, or may, be held in a CTF); [deleted]~~
- (5A) a unit in a KII-compliant NURS must provide the following to a retail client:
- (a) a copy of the scheme's NURS-KII document and (unless already provided) the information required by COBS 13.3.1R(2) (General requirements); and

- (b) if that *client* is present in the *EEA*, enough information for the *client* to be able to make an informed decision about whether to hold the *units* in a *wrapper* (if the *units* will, or may, be held in that way);

...

- (7) a *unit* in a *UCITS* scheme, or in an *EEA UCITS* scheme which is a *recognised scheme*, to a *client*, must:
- (a) provide a copy of the *scheme's key investor information document* or, as the case may be, *EEA key investor information document* to that *client*; and
  - (b) where the *client* is a *retail client*, provide separately, (unless already provided) the information required by COBS 13.3.1R (2) (General requirements) and, if that *client* is present in the *EEA*, the information required by ~~(5)(a) and (b);~~ (5A)(b).
- (8) ~~where the operator of a non-UCITS retail scheme has a dispensation from the FCA in the form of a general waiver by consent under which it may market units of the scheme on the basis of a key investor information document (as modified by the general waiver direction, a "NURS KII document"), rather than on the basis of a key features document or simplified prospectus, a firm that sells units in the scheme must comply with its obligations under this rule by:~~
- ~~(a) providing the retail client with the relevant NURS-KII document; and~~
  - ~~(b) offering any client that is not a retail client the relevant NURS-KII document;~~

~~on condition that it complies with each of the other rules in this section in relation to the provision of the document, as if references in those rules to a "key features document" or "simplified prospectus" were a reference to the "NURS KII document". [deleted]~~

...

#### Provision of key investor information document or NURS-KII document

- 14.2.1A R (1) This *rule* applies to:
- (a) an authorised fund manager of a UCITS scheme or a KII-compliant NURS that is either an *authorised unit trust*, *authorised contractual scheme* or an *ICVC*; and
  - (b) an ICVC that is a UCITS scheme or KII-compliant NURS.
- (2) An *authorised fund manager* and an *ICVC* in (1) that sells *units* in a

*UCITS scheme or a KII-compliant NURS* directly, or through another natural or legal *person* who acts on its behalf and under its full and unconditional responsibility, must ensure that investors are provided with the *key investor information document* for the *UCITS scheme or the NURS-KII document* for the *KII-compliant NURS*.

- (3) An *authorised fund manager* and an *ICVC* in (1) that does not sell *units* in a *UCITS scheme or a KII-compliant NURS* directly, or through another natural or legal *person* who acts on its behalf and under its full and unconditional responsibility, must ensure that the *key investor information document* for the *UCITS scheme or the NURS-KII document* for the *KII-compliant NURS* is provided on request to product manufacturers and intermediaries selling, or advising investors on, potential *investments* in those *UCITS schemes or KII-compliant NURS* or in products offering exposure to them.
- (4) The *key investor information document or the NURS-KII document* must be provided to investors free of charge.
- (5) An *authorised fund manager* and an *ICVC* in (1) may, instead of providing the *key investor information document or NURS-KII document* to investors in paper copy in accordance with (2), provide it in a *durable medium* other than paper or by means of a website that meets the *website conditions*, in which case the *authorised fund manager* and *ICVC* must:
  - (a) deliver a paper copy of the *key investor information document or NURS-KII document* to the investor on request and free of charge; and
  - (b) make available an up-to-date version of the *key investor information document or NURS-KII document* to investors on the website of the *ICVC* or *authorised fund manager*.

[**Note:** articles 80 and 81 of the *UCITS Directive*]

...

14.2.1C R A *firm* that arranges to ~~start the facilitation of~~ facilitate the payment of an adviser charge or consultancy charge, or an increase in, ~~an adviser charge or consultancy charge~~ such a charge from an in-force *packaged product*, must provide to the *retail client* sufficient information for the *retail client* to be able to understand the likely effect of that facilitation.

14.2.1D G Where a *firm* arranges to facilitate the payment of an adviser charge or consultancy charge for a new non-PRIIP packaged product, the information required by COBS 14.2.1CR should be included in the key features illustration.

...

Exception to the provision rules: key features documents, ~~simplified prospectuses~~ and key investor information documents

14.2.5 R A *firm* is not required to provide:

...

(3) the *Solvency II Directive* information, if another *person* is required to provide that information by the *rules* of another *EEA State*; ~~;~~

(4) ~~a simplified prospectus~~ if:

(a) ~~{deleted}~~

(b) (i) ~~the client is buying or investing in response to a direct offer financial promotion without receiving a personal recommendation to buy or invest; and~~

(ii) ~~the firm offers an up-to-date copy of the simplified prospectus to the client and provides materially the same information to the client in some other way. [deleted]~~

...

...

Exception to the provision rules: key features documents and key features illustrations

14.2.7 R A *firm* is not required to provide a *key features document* or a *key features illustration* for:

(1) ~~a key features scheme if it provides a simplified prospectus instead; [deleted]~~

...

(3) a *traded life policy*; or

(4) an interest in an investment trust savings scheme.

...

Exception to the provision rules: key features documents, key features illustrations, ~~simplified prospectuses~~ and key investor information documents and NURS-KII documents

14.2.9 R A *firm* is not required to provide a *key features document* ; or a *key features illustration* ~~or a simplified prospectus for a key features scheme or simplified prospectus scheme~~ if:

...

- (3) the sale is *arranged or personally recommended* by an *investment manager* and the *client* has agreed that a *key features document* ~~or~~ *simplified prospectus* is not required; ~~or~~ .
- (4) ~~a retail client is purchasing a holding in a scheme in which the client already has a holding, or the client is switching from one class of shares or units to another in the same scheme, and the relevant document has already been provided to that client. [deleted]~~

14.2.9A R For the purposes of the provision rules in relation to a *key investor information document* or a NURS-KII document, a firm:

...

- (2) is not required to consider as a new transaction:
  - (a) a subscription to *units* in a *UCITS scheme* ~~or~~ , an *EEA UCITS scheme* or a KII-compliant NURS in which the *client* already holds *units*; or
  - (b) a series of connected transactions undertaken as the consequence of a single investment decision; or
  - (c) a decision by the *client* to switch from one class of *units* to another in the same *scheme*;

if an up-to-date version of the *key investor information document* or NURS-KII document for the *scheme* or the relevant class of *units* has already been provided to that *client*.

[**Note:** article 80 of the *UCITS Directive*]

- 14.2.10 G
- (1) ~~Although a firm is not always required to provide a simplified prospectus to a client (COBS 14.2.9R), the obligation to offer the prospectus to the client (COBS 14.2.1R(5)) remains. [deleted]~~
  - (2) The *FCA* would regard a decision to subscribe to a regular monthly savings plan as a single investment decision for the purpose of *COBS* 14.2.9AR(2)(a). However, a subsequent decision by the *client* to increase the amount of the regular contributions to be invested in *units* of a particular *scheme* or to direct the contributions to a different *scheme*, would in each case constitute a new transaction.

~~Exception to the provision rules: aggregated scheme documents~~

- 14.2.11 R
- ~~A firm may provide a single document, which describes more than one key features scheme or simplified prospectus scheme, or any combination of those schemes, if: [deleted]~~
- (1) ~~the schemes are offered through a platform service;~~

- (2) ~~the document clearly describes the difference between the relevant schemes; and~~
- (3) ~~(in the case of a simplified prospectus scheme) the firm also offers a copy of the relevant prospectus to the client.~~

...

#### The timing rules

14.2.14 R When the *rules* in this section require a *firm* to:

- (1) ~~offer a simplified prospectus to a client, that prospectus must be offered free of charge before the conclusion of the contract; or~~  
[deleted]
- (2) provide a *key features document*, ~~a simplified prospectus~~, or any other *document* or information to a *client*, the *document* or information must be provided free of charge and in good time before the *firm* carries on the relevant business; or
- (3) provide a *key investor information document* ~~or a EEA key investor information document~~ or NURS-KII document to a *client*, it must be provided in good time before the *client's* proposed subscription for *units* in the *scheme*.

[**Note:** article 80 of the *UCITS Directive*]

...

#### Exception to the timing rules: distance contracts and voice telephony communications

- 14.2.16 R (1) A *firm* may provide a *document*, or the information required to be provided by the *rules* in this section, in a *durable medium* immediately after the conclusion of a *distance contract*, if the contract has been concluded at a *client's* request using a means of distance communication that does not enable the *document* or information to be provided in that form in good time before the *client* is bound by the contract.
- (2) The exception in (1) does not apply in relation to the provision of an *EEA key investor information document* ~~or a key investor information document~~ or a NURS-KII document required to be provided under *COBS* 14.2.1R and *COBS* 14.2.1AR.

14.2.17 R ...

- (2) The exception in (1) does not apply in relation to the provision of an *EEA key investor information document* ~~or a key investor information document~~ or a NURS-KII document required to be

provided under COBS 14.2.1R and COBS 14.2.1AR.

### 14.3 Information about designated investments

...

Satisfying the provision rules

...

- 14.3.7 G Providing a *key features document*, *key investor information document*, *EEA key investor information document* or ~~*simplified prospectus*~~ *NURS-KII document* may satisfy the requirements of the *rules* in this section.

...

#### Information about KII-compliant NURS

- 14.3.11A R If a *firm* provides a *client* with a *NURS-KII document* it will have provided appropriate information for the requirement to disclose information on:

- (1) *designated investments* and investment strategies (COBS 2.2.1R(1)(b)); and
- (2) costs and associated charges (COBS 2.2.1R(1)(d) and COBS 6.1.9R);  
in relation to the costs and associated charges for the *KII-compliant NURS* itself, including the exit and entry commissions.

#### Distributor disclosure requirements for UCITS or KII-compliant NURS

- 14.3.12 G A *key investor information document* and *EEA key investor information document* or a *NURS-KII document* provide sufficient information in relation to the costs and associated charges in respect of the *UCITS* or *KII-compliant NURS* itself. However, a *firm* distributing *units* in a *UCITS* or *KII-compliant NURS* should also inform a *client* about all of the other costs and associated charges related to the provision of its services in relation to *units* in the *UCITS* or *KII-compliant NURS*.

...

...

### 15 Cancellation

...

#### 15.2 The right to cancel

...

## Start of cancellation period

15.2.3 R The cancellation period begins:

- (1) ...
- (2) from the day on which the *consumer* receives the contractual terms and conditions and any other pre-contractual information required under this sourcebook or the PRIIPs Regulation, if that is later than the date referred to above.

[**Note:** article 186 of the *Solvency II Directive* and article 6(1) of the *Distance Marketing Directive*]

...

## Disclosing a right to cancel or withdraw

15.2.5 R ...

- (2) This *rule* applies only where a *consumer* would not otherwise receive similar information under a *rule* in this sourcebook or in a key information document from the *firm* or another *authorised person* (such as under the distance marketing disclosure rules (*COBS* 5.1.1R to 5.1.4R) ~~or~~ *COBS* 14 (Providing product information) or the PRIIPs Regulation).

...

## 18 Specialist Regimes

...

### 18.5 Residual CIS operators, UCITS management companies and AIFMs

#### Application

...

18.5.1B R (1) The following apply to a *full-scope UK AIFM* in relation to its *AIFM management functions*:

...

- (d) *COBS* 18.5.10AR and COBS 18.5.10BG, except as set out in (2).

...

...

#### Format and content of fund documents



...

18.5.6A    G    Where a *small authorised UK AIFM* of an *unauthorised AIF* or a *residual CIS operator* is required to publish a *key information document*, only information that is additional to that contained in the *key information document* needs be disclosed under *COBS 18.5.5R*.

18.5.7        G    The fund documents of an *unauthorised fund* managed by a *small authorised UK AIFM* or a *residual CIS operator* (if those fund documents exist) should make it clear that if an investor is reclassified as a *retail client*, this reclassification will not affect certain activities of the *firm*. In particular, despite such a reclassification, the *firm* will not be required to comply with the best execution provisions. It should be noted that there is no requirement that fund documents must be produced by a *small authorised UK AIFM* of an *unauthorised fund* or a *residual CIS operator* unless they are required to prepare a *key information document* under the *PRIIPs Regulation*.

...

Application of COBS 18.5.10E to a full-scope UK AIFM

...

18.5.10B    G    Where a *full-scope UK AIFM* is required to publish a *key information document*, only information that is additional to that contained in the *key information document* needs to be disclosed under *COBS 18.5.10AR*.

...

## TP 2        Other Transitional Provisions

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
...					
<u>2.27</u>	<u>The <i>rules and guidance in COBS</i> that relate to a <i>NURS-KII document</i></u>	<u>R</u>	<u>Where the <i>authorised fund manager</i> of a <i>non-UCITS retail scheme</i>, or an <i>ICVC</i> that is a <i>non-UCITS retail scheme</i>, complies with the <i>rules and guidance in COLL</i> that relate to a <i>NURS-KII document</i>, in accordance with <i>COLL TP 1.1.46R</i>, by using a <i>key investor information document</i></u>	<u>From 1 January 2018 until 19 February 2018</u>	<u>1 January 2018</u>

			(as modified by a general direction from the <i>FCA</i> ), the <i>rules and guidance</i> in column (2) apply in relation to that <i>document</i> as if a reference to a “ <i>NURS-KII document</i> ” were a reference to that <i>document</i> .		
<u>2.28</u>	<u>COBS TP 2.27R</u>	<u>G</u>	The effect of <i>COBS TP 2.27R</i> is that where a modified form of a <i>key investor information document</i> has been produced for a <i>non-UCITS retail scheme</i> prior to 1 January 2018, <i>firms</i> may continue to use that <i>document</i> for a short period until the <i>AFM</i> of the <i>KII-compliant NURS</i> has had time to produce a replacement <i>NURS-KII document</i> that complies with <i>COLL Appendix 2R</i> .	From <u>1 January 2018</u> until <u>19 February 2018</u>	<u>1 January 2018</u>

## Annex D

### Amendments to the Supervision manual (SUP)

In this Annex, underlining indicates new text and striking through indicates deleted text.

## 12 Appointed representatives

...

### 12.3 What responsibility does a firm have for its appointed representatives or EEA tied agent?

Responsibility for appointed representatives

#### 12.3.1 G In determining whether a *firm* has complied with:

- (1) any provision in or under the *Act* such as any *Principle* or other *rule*;  
or
- (2) ~~with~~ any provision in Part 3 of the *MCD Order*; or
- (3) any qualifying *EU* provision specified, or of a description specified, for the purpose of section 39(4) of the *Act* by the Treasury by order,

anything that an *appointed representative* has done or omitted to do as respects the business for which the *firm* has accepted responsibility will be treated as having been done or omitted to be done by the *firm* (section 39(4) of the *Act* and article 17 of the *MCD Order*).

...

## Annex E

### Amendments to Collective Investment Schemes sourcebook (COLL)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

#### 4 Investor Relations

...

#### 4.5 Reports and accounts

...

Authorised fund manager's report

- 4.5.9 R The matters set out in (1) to (13) must be included in any *authorised fund manager's* report, except where otherwise indicated:

...

- (9A) in the case of a *UCITS scheme* or a *KII-compliant NURS* that does not have a significant exposure to immovables, the figure for the *synthetic risk and reward indicator* disclosed in its most recent *key investor information document* or *NURS-KII document* and any changes to that figure that have taken place during the period;

...

...

#### 4.6 Simplified Prospectus provisions [deleted]

~~Application~~

- 4.6.1 R ~~This section applies to an *ICVC*, an authorised fund manager of an *AUT*, *ACS* or *ICVC* and any other *director* of an *ICVC* where, in each case, the *AUT*, *ACS* or *ICVC* is a *simplified prospectus scheme*.~~

~~Production and publication of a simplified prospectus~~

- 4.6.2 R (1) ~~An operator of a *simplified prospectus scheme* must, for each *simplified prospectus scheme* in respect of which it is the *operator*, produce and publish a *simplified prospectus* in accordance with the *rules* in this section and ensure that it contains in summary form each of the matters referred to in the table below that relates to this rule.~~
- (2) ~~A *simplified prospectus* must be incorporated in a written document or in any *durable medium*.~~

- (3) ~~An operator of a simplified prospectus scheme must be satisfied on reasonable grounds that each simplified prospectus which it produces:~~
- (a) ~~includes all such information as is necessary to enable an investor to make an informed decision about whether to acquire units in the scheme;~~
  - (b) ~~does not omit any key item of information;~~
  - (c) ~~wherever possible is written in plain language which avoids technical language and jargon; and~~
  - (d) ~~adopts a format and style of presentation which is clear and attractive to the average reader, so that it can be easily understood by him.~~
- (4) ~~The simplified prospectus may be attached to the full prospectus as a removable part of it.~~

#### ~~Revision of simplified prospectus~~

- 4.6.3 R ~~An operator of a simplified prospectus scheme must, for each simplified prospectus scheme of which it is the operator, keep its simplified prospectus up to date and must revise it immediately on the occurrence of any material change.~~
- 4.6.4 G ~~It is the FCA's view that any change to a simplified prospectus scheme that would be likely to influence the average investor in deciding whether to invest in the scheme or realise his investment in it should be regarded as a material change for the purposes of revision of a simplified prospectus. Examples would be changes to the scheme's objectives or investment policy. The FCA would expect a simplified prospectus to be updated at least annually.~~

#### ~~Filing requirements~~

- 4.6.5 R ~~A UCITS management company must for each UCITS scheme it manages file the scheme's initial simplified prospectus, together with each revision to it, with:~~
- (1) ~~the FCA; and~~
  - (2) ~~the competent authority of each EEA state in which its units are to be marketed in the exercise of an EEA right.~~

#### ~~UK firms exercising passporting rights in respect of UCITS scheme~~

- 4.6.6 R (1) ~~A UCITS management company must for each UCITS scheme it manages and in respect of which it is marketing units in another EEA state in the exercise of an EEA right, produce a simplified prospectus for the scheme drawn up in accordance with the requirements contained in this section.~~

- (2) ~~The *simplified prospectus* must be drawn up in the, or one of the, official languages of the *EEA State* for which it was prepared or in a language approved by the *competent authority* of that *EEA State*.~~
- (3) ~~The *simplified prospectus* may, without alteration, be used for marketing purposes in the *EEA State* for which it was prepared and in which the *units* of the *simplified prospectus scheme* are to be sold.~~

- 4.6.7 G (1) ~~In translating the *simplified prospectus* from English into one or more of the official languages of the *EEA State* in which the *simplified prospectus scheme* is to be marketed, or into a language approved by the *competent authority* of that *State*, it is permissible under article 28.3 of the *UCITS Directive*, in the *FCA's* view, for figures expressed in pounds sterling to be converted into the appropriate local currency such as euros. It is not necessary, for example, for the *simplified prospectus* of a *scheme* that is to be marketed across the *EEA* in the exercise of an *EEA right*, to refer to each amount in pounds sterling, in euros and additionally in every other local currency of an *EEA State* in which *units* of the *scheme* are to be marketed that has not adopted the euro as its currency.~~
- (2) ~~*Operators* considering marketing the *units* of their *simplified prospectus schemes* in another *EEA State* in the exercise of an *EEA right* should have regard to the local marketing legislation of such country.~~

#### Contents of the simplified prospectus

- 4.6.8 R This table belongs to the rule on production and publication of a simplified prospectus (*COLL 4.6.2R* and *COLL 4.6.6R*)

#### Contents of simplified prospectus

Note ÷	By reproducing schedule C (Contents of the simplified prospectus) to the <i>UCITS Directive</i> (as amplified by Commission Recommendation (2004/384/EC)) and cross-referring to other relevant material, this annex details the facts or matters that must be included in a <i>simplified prospectus</i> .
Brief presentation of the <i>simplified prospectus scheme</i> (in this Table referred to as “the <i>scheme</i> ”).	
(1)	<del>when the <i>scheme</i> was created and an indication of the <i>EEA State</i> where the <i>scheme</i> has been registered or incorporated;</del>
(2)	<del>in the case of a <i>scheme</i> having different investment compartments (<i>sub-funds</i>), the indication of this circumstance;</del>
(3)	<del>the name and contact details of the <i>operator</i> (when applicable);</del>
(4)	<del>the expected period of existence of the <i>scheme</i> (when applicable);</del>

(5)	the name and contact details of the <i>depository</i> ;	
(6)	the name and contact details of the auditors;	
(7)	the name and brief details of the financial group (e.g. a bank) promoting the <i>scheme</i> ;	
Investment information		
(8)	a short description of the <i>scheme's</i> objectives including:	
	(a)	a concise and appropriate description of the outcomes sought for any investment in the <i>scheme</i> ;
	(b)	a clear statement of any guarantees offered by third parties to protect investors and any restrictions on those guarantees;
	(c)	a statement, where relevant, that the <i>scheme</i> is intended to track an index or indices, and sufficient information to enable investors both to identify the relevant index or indices and to understand the extent or degree of tracking pursued; and
	(d)	where the <i>scheme</i> is a <i>qualifying money market fund, short term money market fund or money market fund</i> , a statement identifying it as such a fund and a statement that the <i>scheme's</i> investment objectives and policies will meet the conditions in the definition of <i>qualifying money market fund, short term money market fund or money market fund</i> , as appropriate;
Note s:	1.	Information on (8)(a) should include a statement as to whether there is any arrangement intended to result in a particular capital or income return from the <i>units</i> or any investment objective of giving protection to their capital value or income return and, if so, details of that arrangement or protection.
	2.	The information disclosed under (8)(b) should include an explanation of what is to happen when an <i>investment</i> is encashed before the expiry of any related guarantee or protection.
(9)	the <i>scheme's</i> investment policy, including:	
	(a)	the main categories of eligible financial instruments which are the object of investment;
	(b)	whether the <i>scheme</i> has a particular strategy in relation to any industrial, geographic or other market sectors or specific classes of assets, e.g. investments in emerging countries' financial instruments;
	(c)	where relevant, a warning that, whilst the actual portfolio composition is required to comply with the broad legal and

		statutory rules and limits, risk concentration may occur in regard of certain tighter asset classes, economic and geographic sectors;	
	(d)	if the <i>scheme</i> invests in bonds, an indication of whether they are corporate or government, their duration and the ratings requirements;	
	(e)	if the <i>scheme</i> uses financial derivative instruments, an indication of whether this is done in pursuit of the <i>scheme's</i> objectives, or for hedging purposes only;	
	(f)	whether the <i>scheme's</i> management style makes some references to a benchmark; and in particular whether the <i>scheme</i> has an 'index tracking' objective, with an indication of the strategy to be pursued to achieve this; and	
	(g)	whether the <i>scheme's</i> management style is based on a tactical asset allocation with high frequency portfolio adjustments;	
	provided the information is material and relevant;		
Note ÷	The information referred to in paragraphs (8) and (9) may be set out as a single item in the <i>simplified prospectus</i> (e.g. for the information on index tracking), provided that the information so combined does not lead to confusion of the objectives and policies of the <i>scheme</i> . The order of the information items may be adapted to reflect the <i>scheme's</i> specific investment objectives and policy.		
(10)	a brief assessment of the <i>scheme's</i> risk profile by investment compartment or sub-fund, including:		
	(a)	overall structure of the information provided:	
		(i)	a statement to the effect that the value of investments may fall as well as rise and that investors may get back less than they put in;
		(ii)	a statement that details of all the risks actually mentioned in the <i>simplified prospectus</i> may be found in the full <i>prospectus</i> ;
		(iii)	a description in words of any risk investors have to face in relation to their investment, but only where such risk is relevant and material, based on risk impact and probability; and
	(b)	details regarding the description (in words) of the following risks:	
		(i)	specific risks:
			The description referred to in paragraph (10)(a)(iii) should



			include a brief and understandable explanation of any specific risk arising from particular investment policies or strategies or associated with specific markets or assets relevant to the <i>scheme</i> such as:	
			A	the risk that the entire market of an asset class will decline thus affecting the prices and values of the assets (market risk);
			B	the risk that an issuer or a counterparty will default (credit risk);
			C	only where strictly relevant, the risk that a settlement in a transfer system does not take place as expected because a counterparty does not pay or deliver on time or as expected (settlement risk);
			D	the risk that a position cannot be liquidated in a timely manner at a reasonable price (liquidity risk);
			E	the risk that the investment's value will be affected by changes in exchange rates (exchange or currency risk);
			F	only where strictly relevant, the risk of loss of assets held in custody that could result from the insolvency, negligence or fraudulent action of the custodian or of a subcustodian (custody risk); and
			G	risks related to a concentration of assets or markets; and
		(ii)	horizontal risk factors:	
			The description referred to in paragraph (10)(a)(iii) should also mention, where relevant and material, the following factors that may affect the product:	
			A	performance risk, including the variability of risk levels depending on individual fund selections, and the existence, absence of, or restrictions on any guarantees given by third parties;
			B	risks to capital, including potential risk of erosion resulting from withdrawals/cancellations of units and distributions in excess of investment returns;
			C	exposure to the performance of the provider/third-party guarantor, where investment in the product involves direct investment in the provider, rather than assets held by the provider;

			D	inflexibility, both within the product (including early surrender risk) and constraints on switching to other providers;
			E	inflation risk; and
			F	lack of certainty that environmental factors, such as a tax regime, will persist;
		(iii)	possible prioritisation of information disclosure:	
			In order to avoid conveying a misleading image of the relevant risks, the information items should be presented so as to prioritise, based on scale and materiality, the risks so as to better highlight the individual risk profile of the <i>scheme</i> ;	
(11)	the historical performance of the <i>scheme</i> (where applicable) and a warning that this is not an indicator of future performance (which may be either included in or attached to the <i>simplified prospectus</i> ); including:			
	(a)	disclosure of past performance;		
		(i)	the <i>scheme's</i> past performance, as presented using a bar chart showing annual returns for the last ten full consecutive years. If the <i>scheme</i> has been in existence for fewer than ten years but at least for a period of one year, it is recommended that the annual returns, calculated net of tax and charges, be given for as many years as are available; and	
		(ii)	if a <i>scheme</i> is managed according to a benchmark or if its cost structure includes a performance fee depending on a benchmark, the information on the past performance of the <i>scheme</i> should include a comparison with the past performance of the benchmark according to which the <i>scheme</i> is managed or the performance fee is calculated;	
Note ÷	Comparison should be achieved by representing the past performance of the benchmark and that of the <i>scheme</i> through the use of appropriate graphs to assist the reader to make the comparison.			
	(b)	disclosure of cumulative performance:		
		Disclosure should be made of the cumulative performance of the <i>scheme</i> over the ten year period referred to in paragraph (11)(a)(i). A comparison should also be made with the cumulative performance (where relevant) of a benchmark, when comparison to a benchmark is required in accordance with paragraph		

		(11)(a)(ii);	
Note ÷	Where the <i>scheme</i> has been in existence for fewer than ten years but at least for a period of one year, disclosure of the past cumulative performance should be made for as many years as are available.		
	(e)	exclusion of subscription and redemption fees, subject to appropriate disclosure:	
		A statement should be made that past performance of the <i>scheme</i> does not include the effect of subscription and redemption fees.	
Notes	1.	Where a comparison is being made with the cumulative performance of a benchmark as required by paragraph (11)(b), the comparison should be achieved by representing the past performance of the benchmark and that of the <i>scheme</i> through the use of appropriate graphs to assist the reader to make the comparison.	
	2.	The <i>scheme's</i> historical performance may be produced as a separate attachment to the <i>simplified prospectus</i> .	
(12)	a profile of the typical investor the <i>scheme</i> is designed for;		
Economic information			
(13)	the <i>scheme's</i> applicable tax regime, including:		
	(a)	the tax regime applicable to the <i>scheme</i> in the <i>UK</i> ; and	
	(b)	a statement which explains that the regime of taxation of the income or capital gains received by individual investors depends on the tax law applicable to the personal situation of each individual investor and/or to the place where the capital is invested and that if investors are unclear as to their fiscal position, they should seek professional advice or information from local organisations, where available;	
Note ÷	This information should include a statement in relation to <i>SDRT provisions</i> , explaining how the <i>scheme</i> may suffer stamp duty reserve tax as a result of transactions in <i>units</i> and whether the <i>operator's</i> policy is such that an <i>SDRT provision</i> may be imposed.		
(14)	details of any entry and exit commissions relating to the <i>scheme</i> and details of the <i>scheme's</i> other possible expenses or fees, distinguishing between those to be paid by the <i>unitholder</i> and those to be paid from the <i>scheme's</i> or the <i>sub-fund's</i> assets, including:		
	(a)	overall contents of the information provided:	
		(i)	disclosure of a total expense ratio (TER), calculated as

			indicated in Annex 1 to this chapter, except for a newly created fund where a TER cannot yet be calculated;
		(ii)	on an ex ante basis, disclosure of the expected cost structure, that is an indication of all costs available according to the list set forth in Annex 1 to this chapter so as to provide investors, in so far as possible, with a reasonable estimate of expected costs;
		(iii)	all entry and exit commissions and other expenses directly paid by the investor;
		(iv)	an indication of all the other costs not included in the TER, including disclosure of transaction costs;
		(v)	as an additional indicator of the importance of transaction costs, the portfolio turnover rate, calculated as shown in Annex 2 to this chapter; and
		(vi)	an indication of the existence of fee sharing agreements and soft commissions;
Note ÷		1.	In explaining the function of the TER to the reader, appropriate wording should be used in the <i>simplified prospectus</i> . For example, TER might be explained in the following terms: “The TER shows the annual operating expenses of the <i>scheme</i> — it does not include transaction expenses. All European funds highlight the TER to help you compare the annual operating expenses of different <i>schemes</i> .”
		2.	It is the FCA’s understanding that the disclosure of a reasonable estimate of expected costs on an ex ante basis, as required by paragraph (14)(a)(ii), only applies to new <i>schemes</i> where a TER cannot yet be calculated. Where a TER can be calculated for a <i>simplified prospectus scheme</i> , there is no need to have to disclose a reasonable estimate of expected costs on an ex ante basis in accordance with paragraph (14)(a)(ii), in addition to the TER.
		3	Paragraph (14)(a)(vi)) should not be interpreted as a general validation of the compliance of any individual agreement or commission with the provisions of the <i>Handbook</i> . Taking into account current market practice, consideration should be given as to how far the <i>scheme</i> ’s existing fee sharing agreements and comparable fee arrangements are for the exclusive benefit of the <i>scheme</i> .
		4	The <i>simplified prospectus</i> should make a reference to the full <i>prospectus</i> for detailed information on these kinds of arrangements, which should allow any investor to

			understand to whom expenses are to be paid and how possible conflicts of interest will be resolved in his/her best interest. The information provided in the <i>simplified prospectus</i> should remain concise in this respect.
		5.	Details of entry and exit commissions relating to the <i>scheme</i> and details of the <i>scheme's</i> other possible expenses or fees, must be presented in the <i>simplified prospectus</i> in the form required by COBS 4.6.9R (Charges and reduction in yield).
	(b)	information about ‘fee sharing agreements’ and ‘soft commissions’:	
		(i)	identification of ‘fee sharing agreements’;
Note ÷	For the purposes of paragraph (14)(b)(i), fee sharing agreements should be taken as those agreements whereby a party remunerated, either directly or indirectly, out of the assets of a <i>scheme</i> agrees to split its remuneration with another party and which results in that other party meeting expenses through this fee sharing agreement that should normally be met, either directly or indirectly, out of the assets of the <i>scheme</i> .		
		(ii)	identification of soft commissions
Note ÷	For the purposes of paragraph (14)(b)(ii), soft commissions should be regarded as any economic benefit, other than clearing and execution services, that an asset manager receives in connection with the scheme’s payment of commissions on transactions that involve the scheme’s portfolio securities. Soft commissions are typically obtained from, or through, the executing broker.		
	(c)	presentation of TER and portfolio turnover rate;	
Note ÷	Both the TER and the portfolio turnover rate may be either included in or attached to the <i>simplified prospectus</i> in the same paper as information on past performance.		
Commercial information			
(15)	how to buy the <i>units</i> ;		
Note ÷	This should include an explanation of any relevant right to cancel or withdraw from the purchase, or where it is the case, that such rights do not apply.		
(16)	how to sell the <i>units</i> ;		
(17)	in the case of a <i>scheme</i> having different investment compartments ( <i>sub-funds</i> ), an explanation of how to switch from one investment		

	compartment into another and any charges applicable in such cases;		
(18)	when and how dividends on <i>units</i> or <i>shares</i> of the <i>scheme</i> (if applicable) are distributed;		
(19)	when and where prices of <i>units</i> are published or made available;		
Additional information			
(20)	A statement that, on request, the full <i>prospectus</i> and the annual and half-yearly reports of the <i>scheme</i> may be obtained free of charge before the conclusion of the contract and afterwards, together with details of how they may be obtained or how a <i>person</i> may gain access to them;		
(21)	the name and contact details of the <i>FCA</i> as being the <i>competent authority</i> which has authorised or registered the <i>scheme</i> ;		
(22)	details of a contact point ( <i>person</i> or department, and, if appropriate the times of day etc.) where additional information may be obtained if needed;		
(23)	the date of publication of the <i>simplified prospectus</i> ;		
Additional information for a feeder NURS: Objectives and investment policy			
(24)	(a)	where the <i>scheme</i> is a <i>feeder NURS</i> , in the description of objectives and investment policy, information about the proportion of the <i>feeder NURS</i> ' assets which is invested in the <i>qualifying master scheme</i> ; and	
	(b)	a description of the <i>qualifying master scheme</i> 's objectives and investment policy, supplemented by:	
		(i)	an indication that the investment returns of the <i>feeder NURS</i> will be very similar to those of the <i>qualifying master scheme</i> ; or
		(ii)	an explanation of how and why the investment returns of the <i>feeder NURS</i> and <i>qualifying master scheme</i> may differ;
Additional information for a feeder NURS: Risk profile			
(25)	(a)	a description and explanation of any material differences between the risk profile of the <i>feeder NURS</i> and that of the <i>qualifying master scheme</i> ; and	
	(b)	details of:	
		(i)	any liquidity risk; and
		(ii)	the relationship between purchase and redemption arrangements for the <i>qualifying master scheme</i> and <i>feeder</i>

			NURS;	
Additional information for a feeder NURS: Practical information				
(26)	where the <i>scheme</i> is a <i>feeder NURS</i> , information specific to the <i>feeder NURS</i> , including:			
	(a)	a statement that the following <i>documents</i> of the <i>qualifying master scheme</i> are available to <i>unitholders</i> of the <i>feeder NURS</i> upon request, and details of how they may be obtained:		
		(i)	the <i>prospectus</i> ;	
		(ii)	A	the <i>key investor information document</i> ; or
			B	where the <i>authorised fund manager</i> of the <i>qualifying master scheme</i> has a dispensation in the form of a general waiver by consent so that it may provide a <i>key investor information document</i> as modified by the general waiver direction, that document (a ‘NURS KH document’); or
			C	the <i>key features document</i> ; or
			D	the <i>simplified prospectus</i> ; or
			E	the nearest equivalent document for a <i>qualifying master scheme</i> that is a <i>recognised scheme</i> ;
		(iii)	the annual and half yearly long reports (or nearest equivalent documents for a <i>qualifying master scheme</i> that is a <i>recognised scheme</i> ); and	
		(iv)	{deleted}	
	(b)	where the <i>qualifying master scheme</i> is not established in the <i>United Kingdom</i> , and where this may affect the <i>feeder NURS</i> ’ tax treatment, a statement this effect;		
Feeder NURS: past performance presentations				
(27)	(a)	any past performance presentation in the document of the <i>feeder NURS</i> must be specific to the <i>feeder NURS</i> and must not reproduce the performance record of the <i>qualifying master scheme</i> ;		
	(b)	the requirement in (a) does not apply where the <i>feeder NURS</i> :		
		(i)	shows the past performance of its <i>qualifying master scheme</i> as a benchmark; or	

		(ii)	was launched as a <i>feeder NURS</i> at a later date than the <i>qualifying master scheme</i> and where a simulated performance which is based on the past performance of the <i>qualifying master scheme</i> is shown for the years before the <i>feeder NURS</i> existed; or
		(iii)	has a performance record from before the date on which it began to operate as a feeder, its own record being retained in the bar chart of the relevant years, with any material change labelled.
General Note:			
	In making the disclosures required by paragraphs (8) to (19) of this Table, the information must be presented in the form of questions and answers. This format is designed to assist the comprehension of the reader. The requirement will not apply in relation to a <i>simplified prospectus</i> that is to be used to market the <i>units</i> of the <i>scheme</i> in another <i>EEA state</i> or in relation to a <i>simplified prospectus</i> that is to be used to market the <i>units</i> of the <i>scheme</i> exclusively to <i>persons who are not retail clients</i> .		

#### Charges and reduction in yield

- 4.6.9 R (1) In disclosing the information required by paragraph 14 of *COBS 4.6.8G* (Table: Contents of the simplified prospectus), a *firm* must include an effect of charges table and a reduction in yield figure prepared in accordance with the *rules* in sections 2 (Effect of charges table) and 3 (Reduction in yield) of *COBS 13 Annex 3*.
- (2) This *rule* does not apply to a *simplified prospectus* for *units* in a *simplified prospectus scheme* that will be marketed and sold in another *EEA State* or exclusively to those who are not *retail clients*.
- (3) Note (5) to paragraph (14) of *COBS 4.6.8G*, and *COBS 4.6.9R* cease to have effect on 30 June 2011, unless remade.

#### Composite documents for several schemes, sub-funds and classes

- 4.6.10 G In the *FCA's* view, a *firm* may, for the purposes of the *rules* in *COBS 14* requiring a *firm* to provide a *key features document* or a *simplified prospectus*, combine the required information on several *simplified prospectus schemes*, *key features scheme* or *EEA simplified prospectus schemes* or any combination of them into a composite document, provided the document continues to comply with the general requirements such as being clear. Similarly, the information on different *sub-funds* or *classes* within a *scheme* may be combined into a composite document or provided as separate documents. Where the latter approach is adopted, references in this section to "*scheme*" or "*simplified prospectus scheme*" should be taken as referring to the relevant *sub-fund* or *class*, as applicable.



~~Multi-class schemes: use of representative class~~

- 4.6.11 ~~G~~ ~~In the FCA's view, where a *simplified prospectus* scheme has more than one class of unit, the *simplified prospectus* may be prepared on a representative class basis, provided this is made clear and there is no material difference in the classes concerned. The same applies for an *umbrella*, as regards any *sub-fund* with more than one class of units.~~
- 4.6.12 ~~R~~ ~~An authorised fund manager must ensure that its *financial promotions* which contain an invitation to purchase *units* in a *UCITS* scheme indicate that a *simplified prospectus* and a full *prospectus* exist, and the places where they may be obtained by the public or how the public may have access to them.~~

~~Use of the "Key facts" logo within a simplified prospectus~~

- 4.6.13 ~~R~~ ~~A *simplified prospectus* may include the "Key facts" logo if:~~
- ~~(1) the "Key facts" logo is situated in a prominent position at the top of the document; and~~
  - ~~(2) The document also contains the following statement in a prominent position:~~  
~~"The Financial Conduct Authority is an independent financial services regulator. It requires us, [provider name], to give you this important information to help you to decide whether our [product name] is right for you. You should read this document carefully so that you understand what you are buying, and then keep it safe for future reference".~~

## 4.7 Key investor information and marketing communications

### Application

- 4.7.1 ~~R~~ This section applies to an *ICVC*, an *authorised fund manager* of an *AUT*, *ACS* or *ICVC* and any other *director* of an *ICVC* where, in each case, the *AUT*, *ACS* or *ICVC* is:
- ~~(1) a *UCITS* scheme; or~~
  - ~~(2) a *non-UCITS* retail scheme that is offered to retail clients if the authorised fund manager or ICVC draws up a *NURS-KII* document instead of a key information document for the scheme.~~

### Application of the PRIIPs regulation to NURS

- 4.7.1A ~~G~~ (1) An authorised fund manager of a non-UCITS retail scheme or an ICVC that is a non-UCITS retail scheme that is offered to retail clients may draw up either:
- ~~(a) a key information document in accordance with the PRIIPs~~

Regulation; or

- (b) until 31 December 2019, a *NURS-KII document* (in accordance with the exemption in article 32(2) of the *PRIPs Regulation*).
- (2) An authorised fund manager of a *KII-compliant NURS* or an *ICVC* that is a *KII-compliant NURS* will need to comply with *COLL Appendix 2R (Modifications to the KII Regulation for KII-compliant NURS)*, which contains a modified version of the *KII Regulation for KII-compliant NURS* (see *COLL 4.7.3AR*).
- (3) (a) An authorised fund manager of a *KII-compliant NURS* or an *ICVC* that is a *non-UCITS retail scheme* that is offered to professional clients only is not required to comply with the *PRIPs Regulation* or draw up a *NURS-KII document*.
- (b) However, these documents may be used to market the *non-UCITS retail scheme* to professional clients.

## Key investor information

- 4.7.2 R (1) An authorised fund manager must, ~~for each *UCITS scheme* it manages,~~ draw up a short document in English containing key investor information ~~(“a key investor information document”)~~ for investors:
- (a) in each *UCITS scheme* which it manages (a *key investor information document*); and
  - (b) in each *KII-compliant NURS* which it manages (a *NURS-KII document*).
- (2) The words “key investor information” must be clearly stated in ~~this document~~ the *key investor information document* and *NURS-KII document*.
- (3) *Key investor information* must include appropriate information about the essential characteristics of the *UCITS scheme* or *KII-compliant NURS* which is to be provided to investors so that they are reasonably able to understand the nature and risks of the investment product that is being offered to them and, therefore, to take investment decisions on an informed basis.
- (4) *Key investor information* must provide information on the following essential elements in respect of the *UCITS scheme* or *KII-compliant NURS*:
- (a) identification of the *scheme* and that the *FCA* is the *competent authority* of the *scheme*;
  - (b) a short description of its investment objectives and investment policy;

- (c) past performance presentation or, where relevant, performance scenarios;
- (d) costs and associated charges; and
- (e) risk/reward profile of the investment, including appropriate guidance and warnings in relation to the risks associated with investments in the *scheme*.

...

- (6) A *key investor information document* or *NURS-KII document* must clearly specify where and how to obtain additional information relating to the proposed investment, including but not limited to where and how the prospectus and the annual and half-yearly reports can be obtained on request and free of charge at any time, and the language in which that information is available to investors.

...

- (6B) A *NURS-KII document* must also include a statement that the details of the up-to-date remuneration policy will be made available free of charge upon request, including the following:

- (a) a description of how remuneration and benefits are calculated; and
- (b) the identities of persons responsible for awarding the remuneration and benefits, including the composition of the remuneration committee, where such a committee exists.

...

- (8) *Key investor information for a UCITS scheme* must be used without alterations or supplements, except translation, in each *EEA State* where a *UCITS marketing notification* has been made so as to enable the marketing of the *scheme's units* in that State.

[**Note:** article 78 of the *UCITS Directive*]

...

#### Form and content of a NURS-KII document

4.7.3A    **R**    The following must comply with COLL Appendix 2R (Modifications to the KII Regulation for KII-compliant NURS), which contains a modified version of the KII Regulation for KII-compliant NURS, when producing a NURS-KII document:

- (1)    an authorised fund manager of a KII-compliant NURS; and

- (2) an ICVC that is a KII-compliant NURS.

Money market funds that are KII-compliant NURS

- 4.7.3B R Where a KII-compliant NURS is a short-term money market fund, a money market fund or a qualifying money market fund, the authorised fund manager or ICVC must include a statement in its NURS-KII document:

- (1) identifying it as such a fund; and
- (2) stating that the non-UCITS retail scheme's investment objectives and policies will meet the conditions of the definition of short-term money market fund, money market fund or qualifying money market fund, as appropriate.

Feeder NURS that produce a key information document

- 4.7.3C G The authorised fund manager of a feeder NURS, or an ICVC that is a feeder NURS, that draws up a key information document for a retail client, should cross refer to documents related to its qualifying master scheme which enable such clients to understand the qualifying master scheme's key particulars including:

- (1) its investment strategy;
- (2) a description and explanation of any material differences between the risk profile of the feeder NURS and that of the qualifying master scheme; and
- (3) its charges, including the aggregate of the charges of the feeder NURS and its qualifying master scheme as disclosed in the feeder NURS' most up to date prospectus.

**[Note: article 6(2) of the PRIIPs Regulation]**

Translation of a key investor information document or NURS-KII document

- 4.7.4 G While the original key investor information document or NURS-KII document is required by COLL 4.7.2R to be drawn up in English, an authorised fund manager may prepare an accurate translation of it into any language for the purpose of marketing the units of the UCITS scheme or KII-compliant NURS in the United Kingdom. Any such translation should be prepared without alterations or supplements.

Pre-contractual information

- 4.7.5 R The key investor information document and the NURS-KII document must:
- (1) constitute pre-contractual information (see COBS 14.2.1AR (Provision of key investor information document or NURS-KII document));

- (2) be fair, clear and not misleading; and
- (3) be consistent with the relevant parts of the *prospectus*.

[**Note:** article 79(1) of the *UCITS Directive*]

4.7.6 G ...

- (3) A NURS-KII document should not include the wording of warning to investors in (2) as the limitation of liability in (1) does not apply to KII-compliant NURS.

Revision and filing of key investor information or key information document or NURS-KII document

- 4.7.7 R
- (1) An *authorised fund manager* must keep up to date the essential elements of:
    - (a) the key investor information document for each UCITS scheme which it manages; or
    - (b) the NURS-KII document for each KII-compliant NURS which it manages.
  - (2) An *authorised fund manager* must file the *key investor information document* for each *UCITS scheme* or the NURS-KII document for each KII-compliant NURS which it manages, and any amendments thereto, with the *FCA*.
  - (3) An *authorised fund manager* of a *feeder UCITS* or feeder NURS must, in addition to (1) and (2), file the *key investor information* of its *master UCITS* or the NURS-KII document of its qualifying master scheme, and any amendments thereto, with the *FCA*.

...

Synthetic risk and reward indicators and ongoing charges disclosures in the KII

4.7.8 G ...

- (2) In line with the *KII Regulation* and *COLL Appendix 2R*, *firms* in producing their *key investor information documents* or *NURS-KII documents* should take account of CESR's methodologies in calculating the figures for *the synthetic risk and reward indicators* and for ongoing charges to be disclosed in those documents. For ease of reference links to these guidelines are shown below, as follows:

Methodology for the calculation of the synthetic risk and reward indicator in the KII (CESR/10-673)

[https://www.esma.europa.eu/sites/default/files/library/2015/11/10\\_673.pdf](https://www.esma.europa.eu/sites/default/files/library/2015/11/10_673.pdf)

Methodology for the calculation of the ongoing charges figure in the KII (CESR/10-674)

[https://www.esma.europa.eu/sites/default/files/library/2015/11/10\\_674.pdf](https://www.esma.europa.eu/sites/default/files/library/2015/11/10_674.pdf)

...

- 4.7.9 G *Authorised fund managers of a UCITS scheme and KII-compliant NURS* are further advised that CESR, and its successor body, ESMA, have issued guidelines in relation to several other matters concerning *key investor information*. These are:

...

...

#### 4 Annex 1 Total expense ratio calculation [deleted]

~~This Annex belongs to the rule on the contents of the simplified prospectus in this chapter.~~

Total expense ratio (TER)			
1.	Definition of the TER		
	The total expense ratio (TER) of a <i>simplified prospectus scheme</i> is the ratio of the <i>scheme's</i> total operating costs to its average net assets calculated according to paragraph 3.		
2.	Included/excluded costs		
	(a)	The total operating costs are all the expenses which come in deduction of a <i>simplified prospectus scheme's</i> assets. These costs are usually shown in a scheme's statement of operation for the relevant fiscal period. They are assessed on an 'all taxes included' basis, which means that the gross value of expenses should be used.	
	(b)	Total operating costs include any legitimate expenses of the <i>simplified prospectus scheme</i> , whatever their basis of calculation (e.g. flat fee, asset based, transaction based — see note 2 above), such as:	
		-	management costs including performance fees
		-	administration costs
		-	fees linked to <i>depository</i> duties;
		-	audit fees;
		-	payments to shareholder services providers includes payments

			to the <i>simplified prospectus scheme's</i> transfer agent and payments to broker-dealers that are record-owners of the <i>scheme's</i> shares and that provide sub-accounting services for the beneficial owners of the <i>scheme's</i> shares;
		-	payments to lawyers;
		-	any distribution or unit cancellation costs charged to the <i>scheme</i> ;
		-	registration fees, regulatory fees and similar charges;
		-	any additional remuneration of the management company (or any other party) corresponding to certain fee-sharing agreements in accordance with paragraph 4 below.
	(e)	The total operating costs do not include:	
		-	transaction costs which are costs incurred by a <i>simplified prospectus scheme</i> in connection with transactions on its portfolio. They include brokerage fees, taxes and linked charges and the market impact of the transaction taking into account the remuneration of the broker and the liquidity of the concerned assets;
		-	interest on borrowing;
		-	payments incurred because of financial derivative instruments;
		-	entry/exit commissions or any other fees paid directly but the investor;
		-	soft commissions in accordance with paragraph 4.
3.	Calculation method and disclosure		
	(a)	The TER is calculated at least once a year on an ex post basis, generally with reference to the fiscal year of the <i>simplified prospectus scheme</i> . For specific purposes it may also be calculated for other time periods. The <i>simplified prospectus</i> should in any case include a clear reference to an information source (e.g. the <i>scheme's</i> website) where the investor may obtain previous years'/periods' TER figures.	
	(b)	The average net assets must be calculated using figures that are based on the <i>scheme's</i> net assets at each calculation of the net asset value (NAV), e.g. daily NAVs where this is the normal frequency of NAV calculation as approved by the <i>simplified prospectus scheme's</i> competent authorities. Further circumstances or events which could lead to misleading figures have equally to be taken into consideration.	
		Tax relief should not be taken into account.	

		The calculation method of the TER must be validated by the <i>simplified prospectus scheme's</i> auditors and/or competent authorities.
4.	Fee sharing agreements and soft commissions	
	It regularly results from fee sharing agreements on expenses that are generally not included in the TER, that the management company or another party is actually meeting, in all or in part, operating costs that should normally be included in the TER. They should therefore be taken into account when calculating the TER, by adding to the total operating costs any remuneration of the management company (or another party) that derives from such fee sharing agreements.	
	There is no need to take into account fee sharing arrangements on expenses that are already in the scope of the TER. Soft commissions should also be left outside the scope of the TER.	
	Thus:	
	-	the remuneration of a management company through a fee sharing agreement with a broker on transaction costs and with other fund management companies in the case of funds of funds (if this remuneration has not already been taken into account in the synthetic TER (see paragraph 6 below) or through other costs already charged to the fund and therefore directly included into the TER) should anyway be taken into account in the TER,
	-	conversely, the remuneration of a management company through a fee sharing agreement with a <i>scheme</i> (except when this remuneration falls under the scope of the specific fund of fund case covered in the previous indent) should not be taken into account.
5.	Performance fees:	
	Performance fees should be included in the TER and should also be disclosed separately as a percentage of the average net asset value.	
6.	Simplified prospectus scheme investing in UCITS scheme or in non UCITS scheme:	
	When a <i>simplified prospectus scheme</i> invests at least 10% of its net asset value in <i>UCITS schemes</i> or in <i>schemes</i> that are not <i>UCITS schemes</i> which publish a TER in accordance with this Annex, a synthetic TER corresponding to that investment should be disclosed.	
	The synthetic TER is equal to the ratio of:	
	-	the <i>simplified prospectus scheme's</i> total operating costs expressed by its TER and all the costs borne by the <i>scheme</i> through holdings in underlying funds (i.e. those expressed by the TER of the underlying funds weighted on the basis of the <i>simplified prospectus scheme's</i>



		investment proportion), plus the subscription and redemption fees of these underlying funds, divided by:	
	-	the average net assets of the <i>scheme</i> .	
	As mentioned in the previous subparagraph, subscription fees and redemption fees of the underlying funds should be included in the TER. Subscription and redemption fees may not be charged when the underlying funds belong to the same group in accordance with Article 24(3) of the <i>UCITS Directive</i> .		
	When any of the underlying <i>schemes</i> that are not <i>UCITS schemes</i> does not publish a TER in accordance with this Annex, disclosure of costs should be adapted in the following way:		
	-	the impossibility of calculating the synthetic TER for that fraction of the investment must be disclosed;	
	-	the maximum proportion of management fees charged to the underlying fund(s) must be disclosed in the <i>simplified prospectus</i> ;	
	-	a synthetic figure of total expected costs must be disclosed, by calculating:	
		-	a truncated synthetic TER incorporating the TER of each of those underlying funds for which the TER is calculated according to this Annex, weighted on the basis of the <i>simplified prospectus scheme's</i> investment proportion, and
		-	by adding, for each of the other underlying funds, the subscription and redemption fees plus the best available maximum estimate of TER-eligible costs. This should include the maximum management fee and the last available performance fee for that fund, weighted on the basis of the <i>simplified prospectus scheme's</i> investment proportion.
7.	Umbrella funds/multiclass funds:		
	In the case of umbrella funds, the TER should be calculated for each <i>sub-fund</i> . If, in the case of multiclass funds, the TER differs between different share classes, a separate TER should be calculated and disclosed for each share class. Furthermore, in keeping with the principle of equality among investors, where there are differences in fees and expenses across classes, these different fees/expenses should be disclosed separately in the <i>simplified prospectus</i> . An additional statement should indicate that the objective criteria (e.g. the amount of subscription), on which these differences are based, are available in the full <i>prospectus</i> .		

Notes:

1.	This Annex sets out the requirements in relation to the TER. It reproduces, and adapts where appropriate for the purposes of the Simplified Prospectus provisions, Annex 1 to Commission Recommendation (2004/384/EC), amplifying Schedule C (Contents of the simplified prospectus) to the Management Company Directive (2004/107/EC).
2.	The non-exhaustive typology of calculation bases referred to in paragraph 2(b) below reflects the diversity of recent commercial practice across Member States (at the end of 2003) and should not be interpreted as a general validation of the compliance of any individual agreement or commission with the provisions of the <i>Handbook</i> .

#### 4 Annex 2 Portfolio turnover calculation ~~[deleted]~~

This Annex belongs to the rule on the contents of the simplified prospectus in this chapter.	
Note:	This Annex sets out the requirements in relation to the portfolio turnover rate. It reproduces Annex II to Commission Recommendation (2004/384/EC), amplifying Schedule C (Contents of the simplified prospectus) to the Management Company Directive (2004/107/EC). This table also includes other material which the FCA considers should be included.
Portfolio turnover rate	
<del>A simplified prospectus scheme's or, where relevant, a compartment's (sub-fund's) portfolio turnover rate must be calculated in the following way:</del>	
<del>Purchase of securities = X</del>	
<del>Sales of securities = Y</del>	
<del>Total 1 = total of transaction in securities = X + Y</del>	
<del>Issues/Subscriptions of units of the scheme = S</del>	
<del>Cancellations/Redemptions of units of the scheme = T</del>	
<del>Total 2 = Total transaction in units of the scheme = S + T</del>	
<del>Reference average of total net assets = M</del>	
<del>Turnover = [(Total 1 — Total 2)/M]*100</del>	
<del>The reference average of total net assets corresponds to the average of net asset values calculated with the same frequency as under Annex 1 to this chapter. The portfolio turnover rate disclosed should correspond to the period(s) for which a TER is disclosed. The <i>simplified prospectus</i> should in any case include a clear</del>	

reference to an information source (e.g. the *scheme's* website) where the investor may obtain previous periods' performance.

#### Note

Firms should note that inclusion of the portfolio turnover rate in the *simplified prospectus* is mandatory. The rate must be calculated according to the formula which is prescribed above. However, because the rate includes both purchases and sales of *securities*, readers may find it difficult to understand. Consequently *firms* should consider including an explanation of the formula, such as:

$$\frac{(\text{Purchase of securities} + \text{Sales of securities}) - (\text{Subscription of units} + \text{Redemption of units})}{\text{Average Fund Value over 12 months}} \times 100$$

## 5 Investment and borrowing powers

...

### 5.2 General investment powers and limits for UCITS schemes

...

#### Index replication

- 5.2.32 G (1) ~~Where the 20% limit (see *COLL 5.2.31R(1)*) is raised (subject to the maximum of 35% permitted by *COLL 5.2.31R(2)*), the *authorised fund manager* should provide appropriate information in the *simplified prospectus*, in order to explain the *authorised fund manager's* assessment of why this increase is justified by exceptional market conditions.~~

~~[Note: CESR's *UCITS eligible assets guidelines* with respect to Article 12(2) of the *UCITS eligible assets Directive*] [deleted]~~

...

...

## 6 Operating duties and responsibilities

...

### 6.7 Payments

...

#### Prohibition on promotional payments

- 6.7.12 R (1) No payment may be made from *scheme property* to any *person*, other than a payment to the *authorised fund manager* permitted by the *rules*

in *COLL*, for the acquisition or promotion of the *sale* of *units* in an *authorised fund*.

- (2) Paragraph (1) does not apply to the costs an *authorised fund* incurs preparing and printing the ~~*simplified prospectus*~~, *key investor information document*, ~~*key features document*~~ or ~~*key features illustration*~~ *NURS-KII document* or *key information document*, provided the *prospectus* states, in accordance with *COLL* 4.2.5R (13) and (14) (Table: contents of the *prospectus*), that these costs are properly payable to the *authorised fund manager* from *scheme property*.

...

## 8 Qualified investor schemes

...

### 8.3 Investor relations

...

Drawing up and availability of a prospectus

...

- 8.3.2A G (1) The *PRIIPs Regulation* requires the manufacturer of a *PRIIP* to draw up a *key information document* in accordance with the *PRIIPs Regulation* before that *PRIIP* is made available to retail investors (as defined in the *PRIIPs Regulation*).
- (2) The requirements of the *PRIIPs Regulation* are directly applicable.
- (3) As a result, when a *qualified investor scheme* is made available to retail clients the *authorised fund manager* will need to prepare a *key information document* in accordance with the *PRIIPs Regulation*, in addition to the *prospectus*.

...

## 9 Recognised schemes

...

### 9.3 Section 272 recognised schemes

Information and documents to be supplied for a section 272 application

9.3.1 D ...

- (4) The *operator* of a *scheme* must provide the following information and *documents* with the application:

...

- (k) a copy of the latest annual report and any subsequent half-yearly report; ~~and~~
- (l) a copy of any other *document* affecting the rights of *participants* in the *scheme*; and
- (m) (where applicable) a copy of the *key information document* (see *COLL 9.3.4G*).

...

Preparation of a key information document in accordance with the PRIIPs regulation

- 9.3.4     G     (1)     The *PRIIPs Regulation* requires the manufacturer of a *PRIIP* to draw up a *key information document* in accordance with the *PRIIPs Regulation* before that *PRIIP* is made available to retail investors (as defined in the *PRIIPs Regulation*).
- (2)     The requirements of the *PRIIPs Regulation* are directly applicable.
- (3)     As a result, when a *recognised scheme* under section 272 of the *Act* is made available to *retail clients* in the *United Kingdom* the *operator* must draw up a *key information document* in accordance with the *PRIIPs Regulation*.

After COLL Appendix 1EU (KII Regulation) insert the following new Appendix. The text is not underlined.

**Appendix 2R     Modifications to the KII Regulation for KII-compliant NURS**

[**Note:** the numbering of the original articles in the *KII Regulation* has been retained in this Appendix. References to “[deleted]” in this Appendix refer to provisions which are included in the *KII Regulation*, but are not included in the modified version set out below.]

**CHAPTER I**

**SUBJECT MATTER AND GENERAL PRINCIPLES**

*Article 1*

**Subject matter**

[deleted]

## Article 2

### General principles

1. Requirements laid down in this Regulation shall apply to any *authorised fund manager* with regard to each *KII-compliant NURS* it manages.
2. This Regulation shall apply to any *ICVC* which has chosen not to appoint an *authorised corporate director*.

## Article 3

### Principles regarding the NURS-KII document

1. This Regulation specifies in an exhaustive manner the form and content of the document containing *key investor information* (hereinafter referred to as a *NURS-KII document*). No other information or statements shall be included except where this Regulation states otherwise.
2. The *key investor information* shall be fair, clear and not misleading.
3. The *NURS-KII document* shall be provided in such a way as to ensure that investors are able to distinguish it from other material. In particular, it shall not be presented or delivered in a way that is likely to lead investors to consider it less important than other information about the *KII-compliant NURS* and its risks and benefits.

## CHAPTER II

### FORM AND PRESENTATION OF KEY INVESTOR INFORMATION

#### SECTION 1

##### Title of document, order of contents and headings of sections

## Article 4

### Title and content of document

1. The content of the *NURS-KII document* shall be presented in the order as set out in paragraphs 2 to 13.
2. The title 'Non-UCITS retail scheme Key investor information' shall appear prominently at the top of the first page of the *NURS-KII document*.
3. An explanatory statement shall appear directly underneath the title. It shall read:

*'This document provides you with key investor information about this fund. It is*

*not marketing material. The information is required by law to help you understand the nature and the risks of investing in this fund. You are advised to read it so you can make an informed decision about whether to invest’.*

4. The identification of the *KII-compliant NURS*, including the *class* or *sub-fund* thereof, shall be stated prominently. In the case of a *sub-fund* or *class*, the name of the *KII-compliant NURS* shall follow the *sub-fund* or *class* name. Where a code number identifying the *KII-compliant NURS sub-fund* or *class* exists, it shall form part of the identification of the *KII-compliant NURS*.

5. The name of the *authorised fund manager* shall be stated.

6. In addition, in cases where the *authorised fund manager* forms part of a *group* of companies for legal, administrative or marketing purposes, the name of that *group* may be stated. Corporate branding may be included provided it does not hinder an investor in understanding the key elements of the investment or diminish his ability to compare investment products.

7. The section of the *NURS-KII document* entitled ‘Objectives and investment policy’ shall contain the information set out in Section 1 of Chapter III of this Regulation.

8. The section of the *NURS-KII document* entitled ‘Risk and reward profile’ shall contain the information set out in Section 2 of Chapter III of this Regulation.

9. The section of the *NURS-KII document* entitled ‘Charges’ shall contain the information set out in Section 3 of Chapter III of this Regulation.

10. The section of the *NURS-KII document* entitled ‘Past performance’ shall contain the information set out in Section 4 of Chapter III of this Regulation.

11. The section of the *NURS-KII document* entitled ‘Practical information’ shall contain the information set out in Section 5 of Chapter III of this Regulation.

12. Authorisation details shall consist of the following statement:

*‘This fund is authorised in the United Kingdom and regulated by the Financial Conduct Authority’.*

In cases where the *KII-compliant NURS* is managed by an *authorised fund manager* exercising rights under Article 33 of Directive 2011/61/EU (AIFMD), an additional statement shall be included:

*‘[Name of authorised fund manager] is authorised in [name of Member State] and regulated by [identity of competent authority]’.*

13. Information on publication shall consist of the following statement:

*'This key investor information is accurate as at [the date of publication]'*.

## SECTION 2

### Language, length and presentation

#### Article 5

#### Presentation and language

1. A *NURS-KII document* shall be:

(a) presented and laid out in a way that is easy to read, using characters of readable size;

(b) clearly expressed and written in language that communicates in a way that facilitates the investor's understanding of the information being communicated, in particular where:

(i) the language used is clear, succinct and comprehensible;

(ii) the use of jargon is avoided;

(iii) technical terms are avoided when everyday words can be used instead;

(c) focused on the key information that investors need.

2. Where colours are used, they shall not diminish the comprehensibility of the information in the event that the *NURS-KII document* is printed or photocopied in black and white.

3. Where the design of the corporate branding of the *authorised fund manager* or the group to which it belongs is used, it shall not distract the investor or obscure the text.

#### Article 6

#### Length

The *NURS-KII document* shall not exceed two pages of A4-sized paper when printed.

## CHAPTER III

### CONTENT OF SECTIONS OF THE KEY INVESTOR INFORMATION DOCUMENT

## SECTION 1

### Objectives and investment policy



## Article 7

**Specific contents of the description**

1. The description contained in the ‘Objectives and investment policy’ section of the *NURS-KII document* shall cover those essential features of the *KII-compliant NURS* about which an investor should be informed, even if these features do not form part of the description of objectives and investment policy in the *prospectus*, including:

- (a) the main categories of eligible *financial instruments* or other classes of assets that are the object of investment;
- (b) the possibility that the investor may *redeem units* of the *KII-compliant NURS* on demand, qualifying that statement with an indication as to the frequency of *dealing in units*;
- (c) whether the *KII-compliant NURS* has a particular target in relation to any industrial, geographic or other market sectors or specific classes of assets;
- (d) whether the *KII-compliant NURS* allows for discretionary choices in regards to the particular investments that are to be made, and whether this approach includes or implies a reference to a benchmark and if so, which one;
- (e) whether dividend income is distributed or reinvested.

For the purposes of point (d), where a reference to a benchmark is implied, the degree of freedom available in relation to this benchmark shall be indicated, and where the *KII-compliant NURS* has an index-tracking objective, this shall be stated.

2. The description referred to in paragraph 1 shall include the following information, so long as it is relevant:

- (a) where the *KII-compliant NURS* invests in *debt securities*, an indication of whether they are issued by corporate bodies, governments or other entities, and, if applicable, any minimum rating requirements;
- (b) where the *KII-compliant NURS* is a structured fund, an explanation in simple terms of all elements necessary for a correct understanding of the pay-off and the factors that are expected to determine performance, including references, if necessary, to the details of the algorithm and its workings which appear in the *prospectus*;
- (c) where the choice of assets is guided by specific criteria, an explanation of those criteria, such as ‘growth’, ‘value’ or ‘high dividends’;
- (d) where specific asset management techniques are used, which may include

hedging, arbitrage or leverage, an explanation in simple terms of the factors that are expected to determine the performance of the *KII-compliant NURS*;

(e) where the impact of portfolio transaction costs on returns is likely to be material due to the strategy adopted by the *KII-compliant NURS*, a statement that this is the case, making it also clear that portfolio transaction costs are paid from the assets of the fund in addition to the charges set out in Section 3 of this Chapter;

(f) where a minimum recommended term for holding *units* in the *KII-compliant NURS* is stated either in the *prospectus* or in any marketing documents, or where it is stated that a minimum holding period is an essential element of the investment strategy, a statement with the following wording:

*‘Recommendation: this fund may not be appropriate for investors who plan to withdraw their money within [period of time]’.*

3. Information included under paragraphs 1 and 2 shall distinguish between the broad categories of investments as specified under paragraphs 1(a), (c) and 2(a) and the approach to these investments to be adopted by an *authorised fund manager* as specified under paragraphs 1(d) and 2 (b), (c) and (d).

4. The ‘Objectives and investment policy’ section of the *NURS-KII document* may contain elements other than those listed in paragraph 2, including the description of the *KII-compliant NURS*’ investment strategy, where these elements are necessary to adequately describe the objectives and investment policy of the *KII-compliant NURS*.

## SECTION 2

### Risk and reward profile

#### *Article 8*

#### **Explanation of potential risks and rewards, including the use of an indicator**

1. The ‘Risk and reward profile’ section of the *NURS-KII document* shall contain a synthetic indicator (except where paragraph 6 applies), supplemented by:

(a) a narrative explanation of the indicator and its main limitations;

(b) a narrative explanation of risks which are materially relevant to the *KII-compliant NURS* and which are not adequately captured by the synthetic indicator.

2. The synthetic indicator referred to in paragraph 1 shall take the form of a series of categories on a numerical scale with the *KII-compliant NURS* assigned

to one of the categories. The presentation of the synthetic indicator shall comply with the requirements laid down in Annex I.

3. The computation of the synthetic indicator referred to in paragraph 1, as well as any of its subsequent revisions, shall be adequately documented.

*Authorised fund managers* shall keep records of these computations for a period of not less than five years. This period shall be extended to five years after maturity for the case of structured funds.

4. The narrative explanation referred to in paragraph 1(a) shall include the following information:

(a) a statement that historical data, such as is used in calculating the synthetic indicator, may not be a reliable indication of the future risk profile of the *KII-compliant NURS*;

(b) a statement that the risk and reward category shown is not guaranteed to remain unchanged and that the categorisation of the *KII-compliant NURS* may shift over time;

(c) a statement that the lowest category does not mean a risk-free investment;

(d) a brief explanation as to why the *KII-compliant NURS* is in a specific category;

(e) details of the nature, timing and extent of any capital guarantee or protection offered by the *KII-compliant NURS*, including the potential effects of *redeeming units* outside of the guaranteed or protected period.

5. The narrative explanation referred to in paragraph 1(b) shall include the following categories of risks, where these are material:

(a) credit risk, where a significant level of investment is made in *debt securities*;

(b) liquidity risk, where a significant level of investment is made in immovables, or in *financial instruments* which are by their nature sufficiently liquid, yet which may under certain circumstances have a relatively low level of liquidity, so as to have an impact on the level of liquidity risk of the *KII-compliant NURS* as a whole;

(c) counterparty risk, where a fund is backed by a guarantee from a third party, or where its investment exposure is obtained to a material degree through one or more contracts with a counterparty;

(d) operational risks and risks related to safekeeping of assets;

(e) impact of financial techniques such as derivative contracts on the *KII-compliant NURS* risk profile where such techniques are used to obtain,

increase or reduce exposure to underlying assets.

6. A *KII-compliant NURS* having a significant exposure to immovables as permitted under *COLL* 5.6.18R (whereby significant exposure is understood as an exposure of at least 20% in value of the *scheme* property):

(a) shall not include a *synthetic risk and reward indicator* in the ‘Risk and reward profile’ section of its *NURS-KII document*; and

(b) must instead include a full narrative disclosure of risks that are materially relevant to the fund within that section of the *NURS-KII document*;

7. Paragraph 6 will also apply to a *NURS-KII document* for a *feeder NURS* whose *qualifying master scheme* has a significant exposure to immovables.

## Article 9

### Principles governing the identification, explanation and presentation of risks

The identification and explanation of risks referred to in Article 8(1)(b) shall be consistent with the internal process for identifying, measuring and monitoring risk adopted by the *authorised fund manager*. Where an *authorised fund manager* manages more than one *KII-compliant NURS*, the risks shall be identified and explained in a consistent fashion.

## SECTION 3

### Charges

## Article 10

### Presentation of charges

1. The ‘Charges’ section of the *NURS-KII document* shall contain a presentation of charges in the form of a table as laid down in Annex II.

2. The table referred to in paragraph 1 shall be completed in accordance with the following requirements:

(a) entry and exit charges shall each be the maximum percentage which might be deducted from the investor's capital commitment to the *KII-compliant NURS*;

(b) a single figure shall be shown for charges taken from the *KII-compliant NURS* over a year, to be known as the ‘ongoing charges’, representing all annual charges and other payments taken from the assets of the *KII-compliant NURS* over the defined period, and based on the figures for the preceding year;

(c) the table shall list and explain any charges taken from the *KII-compliant NURS* under certain specific conditions, the basis on which the charge is calculated, and when the charge applies.

#### *Article 11*

#### **Explanation of charges and a statement about the importance of charges**

1. The ‘Charges’ section shall contain a narrative explanation of each of the charges specified in the table including the following information:

(a) with regard to entry and exit charges:

(i) it shall be made clear that the charges are always maximum figures, as in some cases the investor might pay less;

(ii) a statement shall be included stating that the investor can find out the actual entry and exit charges from their financial adviser or distributor;

(b) with regard to ‘ongoing charges’, there shall be a statement that the ongoing charges figure is based on the last year's expenses, for the year ending [month/year], and that this figure may vary from year to year where this is the case.

2. The ‘Charges’ section shall contain a statement about the importance of charges which shall make clear that the charges an investor pays are used to pay the costs of running the *KII-compliant NURS*, including the costs of marketing and distributing the *KII-compliant NURS*, and that these charges reduce the potential growth of the investment.

#### *Article 12*

#### **Additional requirements**

1. All of the elements of the charging structure shall be presented as clearly as possible to allow investors to consider the combined impact of the charges.

2. Where the impact of portfolio transaction costs on returns is likely to be material due to the strategy adopted by the *KII-compliant NURS*, this shall be stated within the ‘Objectives and investment policy’ section, as indicated in Article 7(2)(e).

3. Performance fees shall be disclosed in accordance with Article 10(2)(c). The amount of the performance fee charged during the *KII-compliant NURS*' last financial year shall be included as a percentage figure.

#### *Article 13*

#### **Specific cases**

1. Where a new *KII-compliant NURS* cannot comply with the requirements contained in Article 10(2)(b) and Article 11(1)(b), the ongoing charges shall be estimated, based on the expected total of charges.

2. Paragraph 1 shall not apply in the following cases:

(a) for funds which charge a fixed all-inclusive fee, where instead that figure shall be displayed;

(b) for funds which set a cap or maximum on the amount that can be charged, where instead that figure shall be disclosed so long as the *authorised fund manager* gives a commitment to respect the published figure and to absorb any costs that would otherwise cause it to be exceeded.

#### *Article 14*

### **Cross-referencing**

The ‘Charges’ section shall include, where relevant, a cross-reference to those parts of the *KII-compliant NURS prospectus* where more detailed information on charges can be found, including information on performance fees and how they are calculated.

## **SECTION 4**

### **Past performance**

#### *Article 15*

### **Presentation of past performance**

1. The information about the past performance of the *KII-compliant NURS* shall be presented in a bar chart covering the performance of the *KII-compliant NURS* for the last 10 years.

The size of the bar chart referred to in the first sub-paragraph shall allow for legibility, but shall under no circumstances exceed half a page in the *NURS-KII document*.

2. *KII-compliant NURS* with performance of less than 5 complete calendar years shall use a presentation covering the last 5 years only.

3. For any years for which data is not available, the year shall be shown as blank with no annotation other than the date.

4. For a *KII-compliant NURS* which does not yet have performance data for one complete calendar year, a statement shall be included explaining that there is insufficient data to provide a useful indication of past performance to investors.

5. The bar chart layout shall be supplemented by statements which appear

prominently and which:

- (a) warn about its limited value as a guide to future performance;
- (b) indicate briefly which charges and fees have been included or excluded from the calculation of past performance;
- (c) indicate the year in which the fund came into existence;
- (d) indicate the currency in which past performance has been calculated.

The requirement laid down in point (b) shall not apply to *KII-compliant NURS* which do not have entry or exit charges.

6. A *NURS-KII document* shall not contain any record of past performance for any part of the current calendar year.

#### *Article 16*

##### **Past performance calculation methodology**

The calculation of past performance figures shall be based on the net asset value of the *KII-compliant NURS*, and they shall be calculated on the basis that any distributable income of the fund has been reinvested.

#### *Article 17*

##### **Impact and treatment of material changes**

1. Where a material change occurs to a *KII-compliant NURS*' objectives and investment policy during the period displayed in the bar chart referred to in Article 15, the *KII-compliant NURS*' past performance prior to that material change shall continue to be shown.
2. The period prior to the material change referred to in paragraph 1 shall be indicated on the bar chart and labelled with a clear warning that the performance was achieved under circumstances that no longer apply.

#### *Article 18*

##### **Use of a benchmark alongside the past performance**

1. Where the 'Objectives and investment policy' section of the *NURS-KII document* makes reference to a benchmark, a bar showing the performance of that benchmark shall be included in the chart alongside each bar showing the *KII-compliant NURS*' past performance.
2. For *KII-compliant NURS* which do not have past performance data over the required five or 10 years, the benchmark shall not be shown for years in which the *KII-compliant NURS* did not exist.

## Article 19

### Use of ‘simulated’ data for past performance

1. A simulated performance record for the period before data was available shall only be permitted in the following cases, provided that its use is fair, clear and not misleading:

(a) a new *class* of an existing *KII-compliant NURS* may simulate its performance by taking the performance of another *class*, provided the two *classes* do not differ materially in the extent of their participation in the assets of the *KII-compliant NURS*;

(b) a *feeder NURS* may simulate its performance by taking the performance of its *qualifying master scheme*, provided that one of the following conditions are met:

(i) the *feeder NURS*’ strategy and objectives do not allow it to hold assets other than *units* of the *qualifying master scheme* and ancillary liquid assets;

(ii) the *feeder NURS*’ characteristics do not differ materially from those of the *qualifying master scheme*.

2. In all cases where performance has been simulated in accordance with paragraph 1, there shall be prominent disclosure on the bar chart that the performance has been simulated.

3. A *KII-compliant NURS* changing its legal status but remaining established in the *United Kingdom* shall retain its performance record only where the *FCA* reasonably assesses that the change of status would not impact the *KII-compliant NURS*’ performance.

4. In the case of mergers whereby:

(a) one or more *schemes* or *sub-funds* thereof, on being dissolved without going into liquidation, transfer all of their assets and liabilities to another existing *KII-compliant NURS* or a *sub-fund* thereof (the ‘receiving *KII-compliant NURS*’), in exchange for the issue to their *unitholders* of *units* of the receiving *KII-compliant NURS*; or

(b) one or more *schemes* or *sub-funds* thereof, which continue to exist until the liabilities have been discharged, transfer their net assets to a *KII-compliant NURS* which they form or to another existing *KII-compliant NURS* or a *sub-fund* thereof (the ‘receiving *KII-compliant NURS*’); or

(c) one or more *sub-funds* of a *KII-compliant NURS*, which continue to exist until the liabilities have been discharged, transfer their net assets to another *sub-fund* of the same *non-UCITS retail scheme* (the ‘receiving *KII-compliant NURS*’);



only the past performance of the receiving *KII-compliant NURS* shall be maintained in the *NURS-KII document*.

## SECTION 5

### Practical information and cross-references

#### Article 20

#### Content of ‘practical information’ section

1. The ‘Practical information’ section of the *NURS-KII document* shall contain the following information relevant to investors in every Member State in which the *KII-compliant NURS* is marketed:

- (a) the name of the *depository*;
- (b) where and how to obtain further information about the *KII-compliant NURS*, copies of its *prospectus* and its latest annual report and any subsequent half-yearly report, stating in which language(s) those documents are available, and that they may be obtained free of charge;
- (c) where and how to obtain other practical information, including where to find the latest prices of *units*;
- (d) a statement that the tax legislation of the *United Kingdom* may have an impact on the personal tax position of the investor;
- (e) [deleted]

2. Where the *NURS-KII document* is prepared for a *KII-compliant NURS sub-fund*, the ‘Practical information’ section shall include the information specified in Article 25(2) including on investors’ rights to switch between *sub-funds*.

3. Where applicable, the ‘Practical information’ section of the *NURS-KII document* shall state the information required about available *classes* in accordance with Article 26.

#### Article 21

#### Use of cross-references to other sources of information

1. Cross-references to other sources of information, including the *prospectus* and annual or half-yearly reports, may be included in the *NURS-KII document*, provided that all information fundamental to the investors’ understanding of the essential elements of the investment is included in the *NURS-KII document* itself.

Cross-references shall be permitted to the website of the *KII-compliant NURS*

or the *authorised fund manager*, including a part of any such website containing the *prospectus* and the periodic reports.

2. Cross-references referred to in paragraph 1 shall direct the investor to the specific section of the relevant source of information. Several different cross-references may be used within the *NURS-KII document* but they shall be kept to a minimum.

## **SECTION 6**

### **Review and revision of the NURS-KII document**

#### *Article 22*

#### **Review of key investor information**

1. An *authorised fund manager* or *ICVC* shall ensure that a review of *key investor information* is carried out at least every twelve *months*.
2. A review shall be carried out prior to any proposed change to the *prospectus* or the *instrument constituting the fund* where these changes were not subject to review as referred to in paragraph 1.
3. A review shall be carried out prior to or following any changes regarded as material to the information contained in the *NURS-KII document*.

#### *Article 23*

#### **Publication of the revised version**

1. Where a review referred to in Article 22 indicates that changes need to be made to the *NURS-KII document*, its revised version shall be made available promptly.
2. Where a change to the *NURS-KII document* was the expected result of a decision by the *authorised fund manager*, including changes to the *prospectus* or *instrument constituting the fund* of the *ICVC*, the revised version of the *NURS-KII document* shall be made available before the change comes into effect.
3. A *NURS-KII document* with duly revised presentation of past performance of the *KII-compliant NURS* shall be made available no later than 35 *business days* after 31 December each year.

#### *Article 24*

#### **Material changes to the charging structure**

1. The information on charges shall properly reflect any change to the charging structure that results in an increase in the maximum permitted amount of any

one-off charge payable directly by the investor.

2. Where the ‘ongoing charges’ calculated in accordance with Article 10(2)(b) are no longer reliable, the *authorised fund manager* shall instead estimate a figure for ‘ongoing charges’ that it believes on reasonable grounds to be indicative of the amount likely to be charged to the *KII-compliant NURS* in future.

This change of basis shall be disclosed through the following statement:

*‘The ongoing charges figure shown here is an estimate of the charges. [Insert short description of why an estimate is being used rather than an ex-post figure.] The KII-compliant NURS’ annual report for each financial year will include detail on the exact charges made.’*

## CHAPTER IV

### PARTICULAR KII-compliant NURS STRUCTURES

#### SECTION 1

##### Sub-funds

##### Article 25

##### Sub-funds

1. Where a *KII-compliant NURS* consists of two or more *sub-funds* a separate *NURS-KII document* shall be produced for each *sub-fund*.
2. Each *NURS-KII document* referred to in paragraph 1 shall indicate within the ‘practical information’ section the following information:
  - (a) that the *NURS-KII document* describes a *sub-fund* of a *KII-compliant NURS*, and, if it is the case, that the *prospectus* and periodic reports are prepared for the entire *KII-compliant NURS* named at the beginning of the *NURS-KII document*;
  - (b) whether or not the assets and liabilities of each *sub-fund* are segregated by law and how this might affect the investor;
  - (c) whether or not the investor has the right to exchange his investment in *units* in one *sub-fund* for *units* in another *sub-fund*, and if so, where to obtain information about how to exercise that right.
3. Where the *authorised fund manager* sets a charge for the investor to exchange his investment in accordance with paragraph 2(c), and that charge differs from the standard charge for buying or selling *units*, that charge shall be stated separately in the ‘Charges’ section of the *NURS-KII document*.

## SECTION 2

### Classes of units

#### Article 26

#### NURS-KII document for classes of units

1. Where a *KII-compliant NURS* consists of more than one *class of units*, the *NURS-KII document* shall be prepared for each *class of units*.
2. The *key investor information* pertinent to two or more *classes* of the same *KII-compliant NURS* may be combined into a single *NURS-KII document*, provided that the resulting document fully complies with all requirements as laid down in Section 2 of Chapter II, including as to length.
3. The *authorised fund manager* may select a *class* to represent one or more other *classes* of the *KII-compliant NURS*, provided the choice is fair, clear and not misleading to potential investors in those other *classes*. In such cases the 'Risk and reward profile' section of the *NURS-KII document* shall contain the explanation of material risk applicable to any of the other *classes* being represented. A *NURS-KII document* based on the representative *class* may be provided to investors in the other *classes*.
4. Different *classes* shall not be combined into a composite representative *class* as referred to in paragraph 3.
5. The *authorised fund manager* shall keep a record of which other *classes* are represented by the representative *class* referred to in paragraph 3 and the grounds justifying that choice.

#### Article 27

#### Practical information section

If applicable, the 'Practical information' section of the *NURS-KII document* shall be supplemented by an indication of which *class* has been selected as representative, using the term by which it is designated in the *KII-compliant NURS' prospectus*.

That section shall also indicate where investors can obtain information about the other *classes* of the *KII-compliant NURS* that are marketed.

## SECTION 3

### Fund of funds

#### Article 28

#### Objectives and investment policy section

Where the *KII-compliant NURS* invests a substantial proportion of its assets in other *collective investment schemes* as referred to in *COLL 5.6.10R* ('second schemes'), the description of the objectives and investment policy of that *KII-compliant NURS* in the *NURS-KII document* shall include a brief explanation of how the other second *schemes* are to be selected on an on-going basis.

#### Article 29

### **Risk and reward profile**

The narrative explanation of risk factors referred to in Article 8(1)(b) shall take account of the risks posed by each 'second *scheme*' (within the meaning of *COLL 5.6.10R*), to the extent that these are likely to be material to the *KII-compliant NURS* as a whole.

#### Article 30

### **Charges section**

The description of the charges shall take account of any charges that that *KII-compliant NURS* will itself incur as an investor in the 'second *scheme*' (within the meaning of *COLL 5.6.10R*). Specifically, any entry and exit charges and ongoing charges levied by the second *scheme* shall be reflected in the *KII-compliant NURS*' calculation of its own ongoing charges figure.

## **SECTION 4**

### **Feeder KII- compliant NURS**

#### Article 31

### **Objectives and investment policy section**

1. The *NURS-KII document* for a *feeder NURS* shall contain, in the description of objectives and investment policy, information about the proportion of the *feeder NURS*' assets which is invested in the *qualifying master scheme*.
2. There shall also be a description of the *qualifying master scheme*'s objectives and investment policy, supplemented as appropriate by either of the following:
  - (i) an indication that the *feeder NURS*' investment returns will be very similar to those of the *qualifying master scheme*; or
  - (ii) an explanation of how and why the investment returns of the *feeder NURS* and *qualifying master scheme* may differ.

#### Article 32

### **Risk and reward profile section**

1. Where the risk and reward profile of the *feeder NURS* differs in any material respect from that of the *qualifying master scheme*, this fact and the reason for it shall be explained in the ‘Risk and reward profile’ section of the *NURS-KII document*.

2. Any liquidity risk and the relationship between purchase and *redemption* arrangements for the *qualifying master scheme* and *feeder NURS* shall be explained in the ‘Risk and reward profile’ section of the *NURS-KII document*.

### Article 33

#### **Charges section**

The ‘Charges’ section of the *NURS-KII document* shall cover both the costs of investing in the *feeder NURS* and any costs and expenses that the *qualifying master scheme* may charge to the *feeder NURS*.

In addition, it shall combine the costs of both the *feeder NURS* and the *qualifying master scheme* in the ongoing charges figure for the *feeder NURS*.

### Article 34

#### **Practical information section**

1. The *NURS-KII document* for a *feeder NURS* shall contain in the ‘Practical information’ section information specific to the *feeder NURS*.

2. The information referred to in paragraph 1 shall include:

(a) a statement that the *qualifying master scheme's prospectus*, *NURS-KII document*, and periodic reports and accounts are available to investors of the *feeder NURS* upon request, how they may be obtained, and in which language(s);

(b) whether the items listed in point (a) are available in paper copies only or in other *durable media*, and whether any fee is payable for items not subject to free delivery;

(c) where the *qualifying master scheme* is established in a different Member State to the *feeder NURS*, and this may affect the *feeder NURS*’ tax treatment, a statement to this effect.

3. The statement referred to in paragraph 2(a) may refer to the nearest equivalent disclosure *document* for a *qualifying master scheme* which does not issue a *NURS-KII document*.

### Article 35

#### **Past performance**

1. The past performance presentation in the *NURS-KII document* of the *feeder NURS* shall be specific to the *feeder NURS*, and shall not reproduce the performance record of the *qualifying master scheme*.
2. Paragraph 1 shall not apply:
  - (a) where a *feeder NURS* shows the past performance of its *qualifying master scheme* as a benchmark; or
  - (b) where the *feeder NURS* was launched at a later date than the *qualifying master scheme*, and where the conditions of Article 19 are satisfied, and where a simulated performance is shown for the years before the *feeder NURS* existed, based on the past performance of the *qualifying master scheme*; or
  - (c) where the *feeder NURS* has a past performance record from before the date on which it began to operate as a *feeder NURS*, its own record being retained in the bar chart for the relevant years, with the material change labelled as required by Article 17(2).

## SECTION 5

### Structured KII-compliant NURS

#### *Article 36*

#### Performance scenarios

1. The *NURS-KII document* for structured *KII-compliant NURS* shall not contain the 'Past performance' section.

For the purposes of this Section, structured *KII-compliant NURS* shall be understood as *KII-compliant NURS* which provide investors, at certain predetermined dates, with algorithm-based payoffs that are linked to the performance, or to the realisation of price changes or other conditions, of financial assets, indices or reference portfolios or *KII-compliant NURS* with similar features.

2. For structured *KII-compliant NURS*, the 'Objectives and investment policy' section of the *NURS-KII document* shall include an explanation of how the formula works or how the pay-off is calculated.
3. The explanation referred to in paragraph 2 shall be accompanied by an illustration, showing at least three scenarios of the *KII-compliant NURS*' potential performance. Appropriate scenarios shall be chosen to show the circumstances in which the formula may generate a low, a medium or a high return, including, where applicable, a negative return for the investor.
4. The scenarios referred to in paragraph 3 shall enable the investor to

understand fully all the effects of the calculation mechanism embedded in the formula.

They shall be presented in a way that is fair, clear and not misleading, and that is likely to be understood by the average retail investor. In particular, they shall not artificially magnify the importance of the final performance of the *KII-compliant NURS*.

5. The scenarios referred to in paragraph 3 shall be based on reasonable and conservative assumptions about future market conditions and price movements.

However, whenever the formula exposes investors to the possibility of substantial losses, such as a capital guarantee that functions only under certain circumstances, these losses shall be appropriately illustrated, even if the probability of the corresponding market conditions is low.

6. The scenarios referred to in paragraph 3 shall be accompanied by a statement that they are examples that are included to illustrate the formula, and do not represent a forecast of what might happen. It shall be made clear that the scenarios shown may not have an equal probability of occurrence.

#### *Article 37*

### **Length**

The *NURS-KII document* for structured *KII-compliant NURS* shall not exceed three pages of A4-sized paper when printed.

## **CHAPTER V**

### **DURABLE MEDIUM**

#### *Article 38*

### **Conditions applying to the provision of a NURS-KII document in a durable medium other than paper or by means of a website**

1. Where, the *NURS-KII document* is to be provided to investors using a *durable medium* other than paper the following conditions shall be met:

(a) the provision of the *NURS-KII document* using such a *durable medium* is appropriate to the context in which the business between the *authorised fund manager* and the investor is, or is to be, carried on; and

(b) the person to whom the *NURS-KII document* is to be provided, when offered the choice between information on paper or in that other *durable medium*, specifically chooses that other medium.

2. Where the *NURS-KII document* is to be provided by means of a website and that information is not addressed personally to the investor, the following



conditions shall also be satisfied:

- (a) the provision of that information in that medium is appropriate to the context in which the business between the *authorised fund manager* and the investor is, or is to be, carried on;
- (b) the investor must specifically consent to the provision of that information in that form;
- (c) the investor must be notified electronically of the address of the website, and the place on the website where the information may be accessed;
- (d) the information must be up to date;
- (e) the information must be accessible continuously by means of that website for such period of time as the client may reasonably need to inspect it.

3. For the purposes of this Article, the provision of information by means of *electronic communications* shall be treated as appropriate to the context in which the business between the *authorised fund manager* and the investor is, or is to be, carried on if there is evidence that the investor has regular access to the Internet. The provision by the investor of an e-mail address for the purposes of the carrying on of that business shall be treated as such evidence.

## CHAPTER VI

### FINAL PROVISIONS

#### *Article 39*

#### **Entry into force**

[deleted]

## ANNEX I

### **REQUIREMENTS RELATED TO THE PRESENTATION OF THE SYNTHETIC INDICATOR**

1. The synthetic indicator shall rank the fund on a scale from 1 to 7 on the basis of its volatility record.
2. The scale shall be shown as a sequence of categories denoted by the whole numbers in ascending order from 1 to 7 running from left to right, representing levels of risk and reward, from lowest to highest.
3. It shall be made clear on the scale that lower risk entails potentially lower reward and that higher risk entails potentially higher rewards.

4. The category into which the *KII-compliant NURS* falls shall be prominently indicated.

5. No colours shall be used for distinguishing between items on the scale.

## ANNEX II

### PRESENTATION OF CHARGES

The charges shall be presented in a table structured in the following way:

One-off charges taken before or after you invest	
<b>Entry charge</b>	[ ] %
<b>Exit charge</b>	[ ] %
This is the maximum that might be taken out of your money [before it is invested] [before the proceeds of your investment are paid out]	
Charges taken from the fund over a year	
<b>Ongoing charge</b>	[ ] %
Charges taken from the fund under certain specific conditions	
<b>Performance fee</b>	[ ] % a year of any returns the fund achieves above the benchmark for these fees, the [insert name of benchmark]

- A percentage amount shall be indicated for each of these charges.

- In the case of a performance fee, the amount charged in the fund's last financial year shall be included as a percentage figure.

## ANNEX III

### PRESENTATION OF THE PAST PERFORMANCE INFORMATION

The bar chart presenting past performance shall comply with the following criteria:

1. the scale of the Y-axis of the bar chart shall be linear, not logarithmic;
2. the scale shall be adapted to the span of the bars shown and shall not compress the bars so as to make fluctuations in returns hard to distinguish;
3. the X-axis shall be set at the level of 0% performance;

4. a label shall be added to each bar indicating the return in percentage that was achieved;

5. past performance figures shall be rounded to one decimal place.

Amend the following as shown.

## TP 1 Transitional Provisions

### 1.1

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
...					
46	<u>The rules and guidance in COLL that relate to a NURS-KII document.</u>	R	<p><u>An authorised fund manager of a non-UCITS retail scheme and an ICVC that is a non-UCITS retail scheme may comply with the provisions in column (2) using a key investor information document (as modified by a general direction from the FCA) created before 1 January 2018 if it:</u></p> <p><u>(1) had dispensation from the FCA through a modification by consent to market units of the non-UCITS retail scheme using that document until 1 January 2018; and</u></p> <p><u>(2) decides to draw up a NURS-KII document, instead of a key investor information document, in accordance with COLL 4.7 after 1 January 2018.</u></p>	<u>From 1 January 2018 until 19 February 2018</u>	<u>1 January 2018</u>



## Annex F

## Amendments to the Investment Funds sourcebook (FUND)

In this Annex, underlining indicates new text.

### 3 Requirements for alternative investment fund managers

...

#### 3.2 Investor information

...

##### Preparation of key information document in accordance with the PRIIPs regulation

- 3.2.4B    G    (1)    The *PRIIPs Regulation* requires the manufacturer of a *PRIIP* to draw up a *key information document* in accordance with the *PRIIPs Regulation* before that *PRIIP* is made available to retail investors (as defined in the *PRIIPs Regulation*).
- (2)    The requirements of the *PRIIPs Regulation* are directly applicable.
- (3)    As a result, if an *AIFM* makes the *AIF* it manages available to *retail clients* in the *United Kingdom* it must comply with the *PRIIPs Regulation*.
- (4)    This means that, in addition to the prior disclosure of information set out at *FUND 3.2.2R* and *FUND 3.2.3R*, the *AIFM* must prepare:
- (a)    a *key information document*; or
- (b)    if the *AIF* is a *non-UCITS retail scheme*, a *key information document* or a *NURS-KII document*.

...

### 10 Operating on a cross-border basis

...

#### 10.5 National private placement

...

##### Provision of key information document in accordance with the PRIIPs Regulation

- 10.5.13    G    An *AIFM* that makes an *AIF* available to *retail clients* in the *United Kingdom* will need to draw up a *key information document* in accordance with the *PRIIPs Regulation*.

## Annex G

### Amendments to the Prospectus Rules sourcebook (PR)

In this Annex, underlining indicates new text.

#### 1 Preliminary

#### 1.1 Preliminary

...

#### PRIIPs Regulation

1.1.10     G     An issuer, offeror or person requesting admission to trading should also consider whether the requirements of the *PRIIPs Regulation* apply.

#### App 1.1 Relevant definitions

1.1.1     **Note:** The following definitions relevant to the *prospectus rules* are extracted from the *Glossary*.

<i>PR</i>	...
<u><i>PRIIPs Regulation</i></u>	<u>Regulation (EU) No 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products (PRIIPs).</u> <u><a href="http://data.europa.eu/eli/reg/2014/1286/oj">http://data.europa.eu/eli/reg/2014/1286/oj</a></u>

