

Extension of PRIIPs Exemption for UCITS

The Packaged Retail and Insurance-based Investment Products (“**PRIIPs**”) Regulation requires that all PRIIPs be accompanied by a key information document (“**KID**”). UCITS come within the definition of PRIIPs for the purposes of the regulation, but are subject to a transitional arrangement whereby management companies, investment companies and persons advising on, or selling, units of UCITS and non-UCITS are exempt from the requirement to provide retail investors with a key KID. This exemption will expire on 31 December 2021.

After the expiry of the UCITS exemption, UCITS managers would have to provide a PRIIPs KID while also being required under the UCITS Directive to provide a key investor information document (“**KIID**”).

In July of this year, the European Commission (“**Commission**”) launched a consultation on a draft regulation that would extend the UCITS exemption to 1 July 2022. The Commission also published a proposed directive that would amend the UCITS Directive to require member states to accept the provision of a PRIIPs KID as being compliant with the requirement to provide a UCITS KIID, which was intended to come into effect on 1 July 2022.

On 23 November 2021, the European Parliament published a press release announcing that it had voted on the proposal to extend the UCITS exemption and to amend the UCITS Directive. Under the texts adopted by the European Parliament, the transitional arrangement will extend until 31 December 2022, with the revisions to the UCITS Directive set to apply from 1 January 2023. The text also specifies that the Commission should produce a report as a matter of urgency addressing problems in the PRIIPs Regulation including the need for a clearer definition of retail investors.

The next step is for the Council of the EU to adopt the legislative proposals. The Commission is also undertaking a review of Level 2 measures under the PRIIPs Regulation. These measures relate to the presentation and content of the KID, and originally came into effect on 1 January 2018. The European Supervisory Authorities (“**ESAs**”) submitted their **final report** on the revised Level 2 measures in February 2021 and the Commission published the proposed amending Level 2 measures on 7 September 2021. The revised Level 2 measures were intended to apply from 1 January 2022, but have been delayed. It is hoped that the application date of the Level 2 measures will be aligned with the end of the transitional arrangements for UCITS, so that there is one overall application date for the new measures. It is also hoped that the final Level 2 measures will be published in the Official Journal of the EU without further delay to allow managers sufficient time to prepare.

Please get in touch with your usual Asset Management and Investment Funds Department contact or any of the contacts listed in this publication should you require further information in relation to the material referred to in this briefing note.

Full details of the Asset Management and Investment Funds Department, together with further updates, articles and briefing notes written by members of the Asset Management and Investment Funds team, can be accessed at www.matheson.com.

**Tara Doyle**

Partner

T +353 1 232 2221**E** tara.doyle@matheson.com**Michael Jackson**

Managing Partner

T +353 1 232 2000**E** michael.jackson@matheson.com**Dualta Counihan**

Partner

T +353 1 232 2451**E** dualta.counihan@matheson.com**Shay Lydon**

Partner

T +353 1 232 2735**E** shay.lydon@matheson.com**Philip Lovegrove**

Partner

T +353 1 232 2538**E** philip.lovegrove@matheson.com**Liam Collins**

Partner

T +353 1 232 2195**E** liam.collins@matheson.com**Elizabeth Grace**

Partner

T +353 1 232 2104**E** elizabeth.grace@matheson.com**Oisín McClenaghan**

Partner

T +353 1 232 2227**E** oisín.mcclenaghan@matheson.com**Michelle Ridge**

Partner

T +353 1 232 2758**E** michelle.ridge@matheson.com**Barry O'Connor**

Partner

T +353 1 232 2488**E** barry.oconnor@matheson.com**Donal O'Byrne**

Partner

T +353 1 232 2057**E** donal.o'byrne@matheson.com**Catriona Cole**

Partner

T +353 1 232 2458**E** catriona.cole@matheson.com**Bronagh Maher**

Professional Support Lawyer

T +353 1 232 3757**E** bronagh.maher@matheson.com

The material is provided for general information purposes only and does not purport to cover every aspect of the themes and subject matter discussed, nor is it intended to provide, and does not constitute, legal or any other advice on any particular matter. The information in this document is provided subject to the Legal Terms and Liability Disclaimer contained on the Matheson website.