



European Securities and
Markets Authority

Reply form for the Consultation Paper on PRIIPs Key Information Documents



Responding to this paper

The European Securities and Markets Authority (ESMA) invites responses to the specific questions listed in the ESMA Consultation Paper on PRIIPs Key Information Documents, published on the ESMA website.

Instructions

Please note that, in order to facilitate the analysis of the large number of responses expected, you are requested to use this file to send your response to ESMA so as to allow us to process it properly. Therefore, ESMA will only be able to consider responses which follow the instructions described below:

- use this form and send your responses in Word format (pdf documents will not be considered except for annexes);
- do not remove the tags of type <ESMA_QUESTION_PRIIPS_1> - i.e. the response to one question has to be framed by the 2 tags corresponding to the question; and
- if you do not have a response to a question, do not delete it and leave the text “TYPE YOUR TEXT HERE” between the tags.

Responses are most helpful:

- if they respond to the question stated;
- contain a clear rationale, including on any related costs and benefits; and
- describe any alternatives that ESMA should consider

Naming protocol

In order to facilitate the handling of stakeholders responses please save your document using the following format:

ESMA_ PRIIPS _NAMEOFCOMPANY_NAMEOFDOCUMENT.

E.g. if the respondent were XXXX, the name of the reply form would be:

ESMA_ PRIIPS_XXXX_REPLYFORM or

ESMA_ PRIIPS_XXXX_ANNEX1

To help you navigate this document more easily, bookmarks are available in “Navigation Pane” for Word 2010 and in “Document Map” for Word 2007.

Deadline

Responses must reach us by **29 January 2016**.

All contributions should be submitted online at www.esma.europa.eu under the heading ‘Your input/Consultations’.



Publication of responses

All contributions received will be published following the end of the consultation period, unless otherwise requested. **Please clearly indicate by ticking the appropriate checkbox in the website submission form if you do not wish your contribution to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure.** Note also that a confidential response may be requested from us in accordance with ESMA's rules on access to documents. We may consult you if we receive such a request. Any decision we make is reviewable by ESMA's Board of Appeal and the European Ombudsman.

Data protection

Information on data protection can be found at www.esma.europa.eu under the headings 'Legal notice' and 'Data protection'.

Introduction

Please make your introductory comments below, if any:

<ESMA_COMMENT_PRIIPS_1>

Not enough time for implementation

- Given the very technical nature of the underlying methodologies and calculations, there will not be enough time to implement the PRIIP KID by 31 December 2016.
- Draft RTS are to be submitted to the Commission by 31 March. The Commission has three months to endorse the standards before Council and Parliament have another 3(+1)-month scrutiny window. The publication of the final Level-2 Regulation in the EU Official Journal is likely to happen only around autumn 2016. This will give market participants only a few months' time to *implement within their firms* the KID project which is unrealistic from a budget, operational and project management perspective *as the final details of the PRIIPs KID remain to be finalised..*
- By analogy and in the context of UCITS KIID, European institutions had decided to grant a one year delay to asset managers, between the date of the final adoption of the text *setting the details of the KIID* and the obligation to produce the KIID.
-

Not in line with level 1

- Furthermore, regarding specifically UCITS funds and other funds that currently comply with the UCITS KIID, the Level 1 text provides them an explicit exemption until 2019 for implementing the PRIIPs obligations, but it seems that ESAs wish to make them apply the PRIIPs KID as soon as end 2016 when they are underlying investment options of Multiple Option PRIIPs (e.g. unit-linked insurance products) . For us, the Level 1 provisions are clear:
 - o Multiple Option wrapper KIDs shall provide at least “*a generic description of the underlying investment options*” (Article 6 paragraph 3);
 - o UCITS and other funds that produce UCITS KIIDs “*shall be exempt from the obligations under this Regulation until 31 December 2019*” (Article 32 paragraph 1).

It means in practice that as soon as end 2016, the Multiple Option wrappers will have to provide for a generic description of the underlying investment options, by presenting the main features of each underlying fund.

But it does not require that this generic description implies that these underlying funds have to comply by anticipation with the PRIIPs KID – which would contradict the general exemption of Article 32. Until end 2019, this generic description of the underlying options will rely on the features provided by the UCITS KIIDs.

See also our comments on [Articles 12-15](#) below and our answer to Q.28

Need for a MIFID and PRIIPs alignment

- There needs to be an alignment between MiFID and the PRIIP KID to allow the firms proper implementation.
- There is a risk that some topics are treated differently in both regulations and we ask for an alignment of PRIIPs on MIFID
- For examples,
 - o The comprehension alert mentioned in Recital 18 of the level 1 text addresses the topic of **complex products**, which is developed in MiFID. We want it clear that complexity relates to the MIFID definition and that there's no other definition of complexity in PRIIPs.
 - o **Target market:** see below in the comments [Article 4: 'What is this product?' section](#)

- **Timing of delivery** of the KID- article 20; this article relates to matters that are already covered by MIFID . As an example, it is not clear how the “knowledge and experience of the investor “mentioned in article 20, §2.a) articulates properly with the “knowledge and experience of the investor” requested by MIFID in the suitability test for investment advice or in the appropriateness test for execution only on complex products. We would like to stick with MIFID rules when it comes to client protection.

Creating a new level or Risk

- PRIIPs where investors could lose more than the amount invested should not be put in the same MRM class 7 as some equity funds. Either a new class 8 should be created for these products, or class 7 should be kept for them (and in this case, the table in §29 should be amended by deleting class 7).

Performance scenarios are not appropriate for linear products

See our comments below on [Article 6: Performance scenarios](#)

Being practical on Transactions Costs

The “arrival price” methodology is unsuitable to calculate transaction costs for reasons detailed Q.16;

Explicit costs should remain as they are measured on each trade.

As for implicit costs, AFG members would like to be given the choice of tracking the actual spread of the individual transaction or using the standardized spread table when the actual spread is not observable.

The choice would be decided upfront either by product or by asset classes and not on case by case basis.

See our full remarks on costs on Q.16, Q.17 and Q.27.

Additional comments relating to the draft RTS not covered in the Questions

As the consultation asks only few questions, please see reproduced hereafter other comments received from our members on some technical points in the paper:

Article 3: Identity section

Article 3(f)

“The date of the production and of any *subsequent* revision of the key information document” is required sub-paragraph (f) to be stated in the KID. The wording “any *subsequent* revision” could be misunderstood to refer to the dates of all the subsequent revisions, adding no useful information to the investor. We therefore propose that the article instead refers to “the date of the production and of the ***latest revision*** of the key information document”.

Article 4: ‘What is this product?’ section

This paragraph goes beyond level 1 text and brings excessive complexity in the definition of the target market.

Article 4(4)

Article 4(4) proposes to include “the target market identified by the PRIIP manufacturer’s product oversight and governance processes”. The referenced Article 8(3)(c) of the PRIIP KID Regulation merely requires “a description of the type of retail investor to whom the PRIIP is intended to be marketed, in particular in terms of the ability to bear investment loss and the investment horizon”.

The addition of “product oversight and governance processes” does not exist in the Level-1 Regulation and thus would require non-MIFID firms, such as UCITS Management Companies and

AIFMs, to apply the MiFID II product governance and oversight rules for product manufacturers, which was not intended in the Level-1 Regulation. Therefore the above mentioned sentence should be amended as follows: “the target market identified by the PRIIP manufacturer.”

Moreover, the ESAs’ proposal goes even further by stating that these product oversight and governance processes need to take into account “the financial interests, knowledge, objectives and characteristics of the types of retail investors for whom the PRIIP has been designed...”

This goes beyond the product oversight and governance processes¹ requirement of the to-be-released draft MiFID II Delegated Directive, which are not expected to require the product manufacturer to specify a target market according to *financial interests, knowledge and objectives*.

The PRIIP KID Regulation is meant to provide product disclosure and should not introduce new governance requirements through the Level-2 measures.

These aforementioned requirements should therefore be replaced with a reference to Art. 16 para. 3 of MiFID II and Art. 25 of draft IDD.

Article 6: Performance scenarios

The level 1 text of PRIIPs provides in article 8 (3),d) that the investment firm should give: “under a section titled “What are the risks and what could I get in return?”, a brief description of the risk-reward profile comprising the following elements:

(...)

(iii) appropriate performance scenarios, and the assumptions made to produce them;”

We are of the view that a misleading approach has been taken by regulators when requiring such scenarios for any PRIIPs: performance scenarios were introduced in UCITS IV Directive for structured UCITS in order to provide adequate illustration for some structured funds based on a ‘formula’ i.e. funds with an expected return linked to the evolution of some indices or to the combination of index and other hypothesis.

Applying this to usual funds or to life insurance products **will drive in many cases to irrelevant assumptions** which **could only provide illusion to investors with very detrimental effects in case of litigation.**

A certain understanding by some legislators of the level 1 PRIIPs Regulation is that it would prohibit the use of past performances in the new KID which in our view is quite senseless.

Past performances have always been the best way in order to compare management skills for funds invested in the same asset class because recurrent return gaps between various funds provide a clear indication about the quality of asset management teams.

Therefore they should be maintained for any linear fund (i.e. classical open-ended funds invested in listed securities) instead of being replaced by hypothetical future scenarios. We consider that **future performance scenarios are not appropriate** at all for these funds and that they should not be required in line with the level one text.

For that same reason, any unit linked insurance contract, i.e. contract invested in linear UCITS or AIF should not be subject to these performance scenarios.

For non-linear funds as structured funds or life-cycle funds and also for some closed-ended funds, ‘what if’ scenarios may be relevant all the more when past performances are not available.

Article 7: ‘What happens if [the name of the PRIIP manufacturer] is unable to pay out?’ section

¹ MiFID II Commission Delegated Directive; Article 9(9)-(12)

An additional paragraph providing information on the structure of funds is necessary to complement para. 2 on investor compensation and guarantee schemes. This paragraph should explain that a fund's assets are held separately from the management company and safeguarded by a depositary. A pay-out of the fund's assets is thus not affected by a management company's financial position or potential default.

Article 10: 'How can I complain?' section

While we are generally in agreement with the drafting of Article 10, it currently requires the PRIIP manufacturer to provide information on "the person advising on, or selling, the PRIIP on the relevant website". This assumes a direct connection between the PRIIP manufacturer and distributor, which is not always the case. In particular, for funds information about who will be advising on or selling the PRIIP is rarely known. This information will therefore be difficult to provide and should thus be deleted.

Articles 12-15: Specific provisions on the key information document (i.e. Multi-investment option PRIIPs)

We are thankful for the clarification that the PRIIP manufacturer is responsible for the provision of the KID, but nevertheless think that the ESAs' current drafting oversteps the *Article 6 (3) of Level-1 text* which merely necessitates Multi-investment option PRIIPs (MOPs) to provide "at least **a generic description** of the underlying investment options and **state where and how more detailed pre-contractual information documentation** relating to the investment products backing the underlying investment options **can be found**."

This is due to the fact that Articles 12-15 (in particular Articles 12(1)(a) & (b) and Article 15(2)) as currently submitted for consultation by the ESAs would de-facto require asset managers to provide "PRIIP KID-like" data, and probably actual KIDs, to other providers, such as insurance companies. This de-facto undermining of the temporary exemption **until end 2019** for UCITS and many nationally regulated retail funds is even acknowledged by the ESAs in the consultation paper².

The Level-1 text, for this very reason, therefore specifically requires only "pre-contractual information documentation" such as the UCITS KIID. Until the review of the UCITS KIID exemption in 2019, the ESAs should allow such to be as sufficient, since it would otherwise undermine the UCITS KIID's pre-contractual nature before the legislators' decision on the matter. But in any case the MOP wrapper itself KID would still have to provide only the "generic description mentioned in Article 6 paragraph 3 of Level 1.

Furthermore, the ESAs should also take into consideration what type of pre-contractual information will be presented to retail investors in the near to medium future. Since UCITS are legally required to provide a KIID until at least 2019, investors will always receive a UCITS KIID when investing directly into a UCITS. If MOPs were required to provide a PRIIP KID for the underlying investment options, then retail investors would receive different pre-disclosure information based on whether they are investing into a UCITS directly (i.e. KIID) or through a unit-linked insurance (i.e. KID). This is unsatisfactory, and would create unnecessary confusion for consumers.

Therefore, Articles 12-15 need to be redrafted in order to comply with the Level-1 framework.

Article 16-20: Review, revision and republication of the key information document

Recital 19: Use of mailing lists

² Page 123 on MOPs Costs: "[...] In so far as the insurance undertaking requests that the UCITS to already prepare KID compliant information for the insurance undertaking – though this is not directly required under the PRIIP Regulation -- this would have the practical impact of undermining the temporary exemption in the Regulation and requiring UCITS to produce simultaneously a KII and KID-compliant information."

Recital 19 needs to be either deleted or clarified further, as it states that “[t]ools, such as mailing lists or email alerts, might be implemented to inform existing retail investors when key investor documents are revised”, which creates untrue statements.

First, the KID is a pre-contractual document and is thus not designed to update current investors on the PRIIP performance (which is not possible due to no past performance being presented).

Secondly, the current wording blurs the roles and responsibilities between manufacturers and distributors. It is the sole responsibility of the manufacturer to review, revise and republish the KID on his website. If possible, it can inform its known distribution network of the revised KID. It is not possible for the manufacturers to inform the investors, as most manufacturers are not aware who the end investors are and often do not have direct contact with them.

Article 17: Ad hoc review of the key information document

Article 17 is missing an all-important “materiality” reference. This exists in the UCITS KIID requirements and ensures that **only material changes** trigger an ad hoc review of the KIID. This is important, as it ensures that minor and inconsequential changes do not require the PRIIP manufacturer to perform an ad hoc review.

ANNEX II: METHODOLOGY OF RISK CALCULATION

Part 1: Methodology for the market risk assessment

In general, our members believe that manufacturers should be given the choice to privilege performances measured weekly or daily for the risk calculations.

Page 34, §1(b) and §6 : Terminology: “2.5% VaR” should read “97.5% VaR”. And in §6, wrong reference to “V(a)(i)”.

Page 35, §8: For a structured product belonging to the **Category III**, where the final payout is based on the performance of an asset denominated in a currency which is different from the one of the PRIIPS, we should take into account the Quanto adjustment. In order to keep coherent the whole proposed methodology, we should adjust the drift of the underlying’s with all the necessary carry costs, including those generated by the Quanto adjustment. The general formula for the Expected Value for the Equity Asset class at a Forward date T is given as follows

$$SpotPrice e^{\left(R_T^{PRIIPS} - d_T - Repo_T - QuantoTerm\right)}$$

Where :

- $SpotPrice$: The Spot price of the PRIIPS underlying’s at calculation date.
- R_T^{PRIIPS} : The Risk Free rate of the natural currency of the PRIIPS.
- d_T : The expected dividend yield over the period between the calculation date and the forward date T .
- $Repo_T$: The Repo Rate.
- $QuantoTerm$: The Quanto term, defined as follows:

$$QuantoTerm = R_T^{PRIIPS} - R_T^{UDL} - \rho \sigma_T^{UDL} \sigma_T^{FX}$$

Where :

- R_T^{UDL} : The Risk Free rate of the natural currency of the PRIIPS underlying’s.
- ρ : The linear correlation coefficient (i.e., correlation of increments, usually estimated from time series) between the PRIIPS underlying’s and the Foreign Exchange rate (in terms of value of one PRIIPS currency unit expressed in the PRIIPS underlying’s domestic currency).
- σ_T^{FX} : The at-the-money implied volatility of the FX rate.

- σ_T^{UDL} : The domestic at-the-money implied volatility of the PRRIPS underlying's.

If the PRIIP and its underlyings have the same currency $R_T^{PRIIPS} = R_T^{UDL}$ (i.e. $\sigma_T^{FX} = 0$), we recover the formula of the Expected Value suggested in the consultation:

$$SpotPrice e^{(R_T^{PRIIPS} - d_T - Repo_T)}$$

Another point not addressed in the Draft is how to calculate the Expected Value For FX underlyings. For this Asset Class some members recommend to set the Expected Value for a given horizon T to be equal to current FX Forward with the same horizon.

Page 35, §9(b): PRIIPs where investors could lose more than the amount invested should not be put in the same MRM class 7 as some equity funds. Either a new class 8 should be created for these products, or class 7 should be kept for them (and in this case, the table in §29 should be amended by deleting class 7).

Page 36, §13(a):

- **Mixed/flexible/multi-asset funds** seem to fall into class 6, which is absurd. The class could be determined as a weighted average of the classes of the potentially most risky allocation allowed by the fund's documentation.
- **Structured PRIIPs** fall into class 6, even if they provide for a capital guarantee, which is absurd. For these PRIIPs, we suggest the following:
 - o Structured PRIIPs where the investor can potentially lose all his initial investment should be assigned to class 6.
 - o For Structured PRIIPS with total or partial unconditional protection of capital, we make the 97.5% VaR equal to the difference between the value of the protected fraction of the initial investment and the initial investment (i.e. $VaR = \text{maximum loss}$). Using §28, we get the VEV which is then converted into MRM class, using §29 table.

We also ask the ESAs to clarify para. 13(a)(ii) with regard to insufficient data. Indeed, the added value of this statement is unclear, as there are other paragraphs already dealing with rules on insufficient data: Category II, par. 10 last sentences ((2 years historical daily prices or 4 years of historical weekly prices/proxy are available) and Category V, par. 17.

Page 36, §14: in the first line, wrong reference, "18" should read "13"

For category V PRIIPs, funds with illiquid assets.

As regard to real estate funds, a fixed attribution of a MRM class looks relevant and adapted as the value of such assets doesn't fluctuate on a daily basis nor on a weekly basis.

Nevertheless, the proposed levels (4 or 5) don't fit with all illiquid asset classes; e.g. the real estate market is larger and deeper than the forest or painted art markets and should be given a different level of risk; a level of 3 would be appropriate.

Moreover, some closed-ended real estate funds have an active secondary market or the legal duty to execute redemption of shares after a predefined delay of time.

Therefore, we advocate also that a level of 3 should be given to these specific closed-ended real estate funds.

Page 37, §21 to §28: The Cornish-Fisher methodology could be presented in more comprehensive way by adopting a standard notation used in statistics and also by improving the quality of the estimators used in the calculations.

1. **Notations :**

- n : The size of the sample.
- P_i : The price at market close on day i
- r_i : Log-return of the period $i - 1$ and i

$$r_i = \ln\left(\frac{P_i}{P_{i-1}}\right)$$

- μ : The empirical **Mean** of the sample of log-returns.

$$\mu = \frac{1}{n} \sum_{i=1}^n r_i$$

- σ : The unbiased estimator of the **Standard Deviation** of the sample of log-returns:

$$\sigma = \sqrt{\frac{1}{n-1} \sum_{i=1}^n (r_i - \mu)^2}$$

- S : The unbiased estimator of the **Skewness** of the sample of log-returns:

$$S = \frac{\sqrt{n(n-1)}}{n-2} \left[\left(\frac{1}{n} \sum_{i=1}^n (r_i - \mu)^3 \right) \left(\frac{1}{n} \sum_{i=1}^n (r_i - \mu)^2 \right)^{-\frac{3}{2}} \right]$$

Or equivalently:

$$S = \frac{n}{(n-1)(n-2)} \sum_{i=1}^n (r_i - \mu)^3$$

- K : The unbiased estimator of the **Excess Kurtosis** of the sample of log-returns:

$$K = \frac{n-1}{(n-1)(n-2)} \left[\left((n+1) \left(\frac{1}{n\sigma^4} \sum_{i=1}^n (r_i - \mu)^4 - 3 \right) + 6 \right) \right]$$

- \bar{r}_i : Log-return of the period $i - 1$ and i adjusted by removing the impact of the mean.

2. **Formulas :**

- The Cornish-Fisher formula for approximating, VaR_p^{RAS} , the Value At Risk, on the return adjusted space \bar{r} for the Recommended Holding Period T with confidence level p can be written as follows:

$$VaR_p^{RAS} = \sigma \sqrt{252} \sqrt{T} \left[z_p + \frac{(z_p^2 - 1)}{6} S + \frac{(z_p^3 - 3z_p)}{24} K - \frac{(2z_p^3 - 5z_p)}{24} S \right]$$

Where z_p is the parametric VaR critical value for the confidence level p . For $p = 97.5\%$, we have $z_p \approx 1.96$

- The formula of the VaR on the Price Space **should not be adjusted** by the quadratic term $\left(-\frac{\sigma^2}{2} T\right)$. The correct formula of the VaR on the Price Space VaR_p^{PS} adjusted from the sample mean effect :

$$VaR_p^{PS} = P_{Spot Price} \exp(VaR_p^{RAS})$$

In this formulation, we have purposely remove the risk free rate as we deal with discounted quantities.

- The VEV is given by :

$$VEV = \frac{\sqrt{z_p^2 - 2 \ln(VaR_p^{PS})} - z_p}{\sqrt{T}}$$

Page 38&39 regarding category III PRIIPS (structured funds). ACP part is seen as non-necessary, it gives additional calculation burden without bringing any convergence/quality gain. We believe that the industry should be given the choice of what curves to use. The main essential principles of the method are already given (historical VaR, bootstrap, payoff full repriced at maturity).

Page 38, from §30 to §38:

- Without questioning the appropriateness of the bootstrapping methodology, there are some general points to be clarified ,
 - *The Bootstrapping Technic* :even if it implicitly suggested that the Bootstrapping sampling should be performed with replacement, we recommend using the following sentence:
 - ⇒ **“Bootstrapping with Replacement”**
 - *The Methodology*: the description of the methodology in Point **32** may be misleading as it suggests that the sum of log returns should be adjusted in order to remove the impact of the Mean, which is correct, and also the **Variance**, which is not correct. This point should be reworded differently in order to avoid any ambiguity.
 - ⇒ We suggest to remove the word **“Variance”**
 - *The Expected Value*: as mentioned earlier, all the described methodology assumes that the structured PRIIPS underlying’s and the structured PRIIS have the same currency. Again, In order to be coherent, we should adjust the forward with Quanto effect and the risk free of the natural currency of the PRIIPS underlying’s. The methodology should also specify how to calculate the Expected Value of FX and Credit underlying’s.
 - ⇒ For these two points, see above our comments on **Page 35 Point 8**.
 - *Correlation products*: the described methodology didn’t address the issue of simulating correlated paths for multi-underlying’s product by Bootstrapping. In order to not completely destroy the cross correlation structure in multi-dimensional setting, we suggest the following method:
 - Assume that the PRIIPS payoff depends explicitly on **m** market factors, denoted by $(F_j)_{1 \leq j \leq m}$. Furthermore we assume that we have synchronized data of the daily returns of these factors. Each factor F_j has the same returns sample size **n** so that $F_j = \{r_1^j, \dots, r_n^j\}$
 - **Step 1** : Create a m-tuple $(X_i)_{1 \leq i \leq n}$, which is a sequence of **m** returns, where : for each sample date *i* we have :

$$X_i = \{r_i^1, \dots, r_i^m\}$$
 - **Step 2**: Simulate a set of $N = RHP \times 252^3$ i.i.d. uniform random integers $(U_i)_{1 \leq i \leq N}$ from the range $\{1, \dots, n\}$, (with replacement).

³ **RHP** is the Recommend Holding Period

- **Step 3** : Construct the Bootstrap sample $(X_i^b)_{1 \leq i \leq N}$ and perform the calculations detailed in page 37 from Point 30 to 38:
- **Step 4** : Repeat the procedure to achieve desired number of paths.

Alternatively, other Bootstrapping methods for dependent data can be used such as:

1. Block Bootstrapping.
2. Parametric Bootstrapping: Regression Residuals Resampling.

Page 39 from §39 to §41: the methodology is overly detailed. More flexibility should be left to the manufacturer to model interest rates curves. At least, the description of bootstrapping methodology needs to be reviewed and enhanced by:

- Defining the notion of Curves: which interest rate curve? Curve derived from 6Months, 3Months or 1M frequency IRS? Those variables are zero-coupons rates?
- Reformulating the Equations: All the methodology steps should be reworded clearly to avoid any misunderstanding.

Page 40, §55(c): Structured funds seem to fall within the scope of this paragraph, which is surprising, because we do not understand why a structured fund should be treated differently from a classical bond fund investing in the same portfolio of bonds. At the very least, ESAs should recognize in paragraph 65 that in the case where the fund benefits from a third party guarantee of the whole payoff, the credit assessment can be decreased by 1 credit risk class. Because in that case, there is a double layer of protection: the fund's investments and the third party guarantee. Some conditions could be put on the third party, like being a regulated financial institution.

<ESMA_COMMENT_PRIIPS_1>

Question 1

Would you see merit in the ESAs clarifying further the criteria set out in Recital 18 mentioned above by way of guidelines?

<ESMA_QUESTION_PRIIPS_1>

No. There is no need to develop further/different guidance by way of guidelines because MiFID and IDD definition of complex products is a sufficient and appropriate basis.

MiFID II, IDD and the PRIIP KID Regulation together form the outcome of the overall PRIIPs initiative and hence should provide for a coherent set of rules. MiFID II intends to harmonise investor protection also with respect to complex products offered (see Recital 70). On the one hand, MiFID II also recognises that a client is likely to require more information on complex products (see Recital 83). On the other hand, MiFID non-complex products may be sold without the need to obtain information from the client and are understood as products that do not incorporate a structure that makes it difficult for the client to understand the risks involved. The PRIIP KID comprehension alert aims to clarify for the retail investor that it might be difficult for him/her to understand the product. Consequently, such an alert is intended to raise awareness that he/she might need more information. It therefore seems logical to require all complex products under MiFID II and IDD to include a comprehension alert and all other products not.

<ESMA_QUESTION_PRIIPS_1>

Question 2

- *Would you agree with the assumptions used for the proposed default amounts? Are you of the opinion that these prescribed amounts should be amended? If yes, how and why?*
- *Would you favour an approach in which the prescribed standardised amount is the default option, unless the PRIIP has a known required investment amount and price which can be used instead?*

<ESMA_QUESTION_PRIIPS_2>

(i) Regarding the default amounts, there is no justification to complicate the comparisons between different types of PRIIPS by using 15000 euros as basis for insurance PRIIPS. Our members think that using 1000 or 10000 has the benefit of simplicity of use and facilitates comparisons with investment funds.

(ii) Ok.

<ESMA_QUESTION_PRIIPS_2>

Question 3

For PRIIPs that fall into category II and for which the Cornish Fisher expansion is used as a methodology to compute the VaR equivalent Volatility do you think a bootstrapping approach should be used instead? Please explain the reasons for your opinion?

<ESMA_QUESTION_PRIIPS_3>

No, AFG members do not agree with using a bootstrap approach for PRIIPS falling into category II.

Cornish Fisher gives good results; there is no need for a more complex methodology.

Our members support the use of a historical VaR computation as it provides with a distributional-free risk indicator which is key given "real life" price patterns hardly captured by a formula distribution assumption. Though bootstrapping help to tackle with short historical observation periods, academic results highlighted that for instance Basel Committee requirement for a minimum historical observation period of 250 days

produces accurate VaR measures. Given that category II PRIIPS must use 5 years historical data, there is no need to bootstrap as the historical observation period is long enough to produce accurate results. Additionally, the Cornish Fisher extension allows tackling potential VaR underestimations. As such, it would be redundant to use bootstrapping and the benefit in terms of information brought by such an approach would in many cases be negligible.

<ESMA_QUESTION_PRIIPS_3>

Question 4

Would you favour a different confidence interval to compute the VaR? If so, please explain which confidence interval you would use and state your reasons why.

<ESMA_QUESTION_PRIIPS_4>

We could agree with the proposed confidence interval. However, we strongly believe that PRIIPs managers should best have the possibility to choose the confidence interval to be set in their calculation systems within an imposed range from 95% to 99% and then rescale to a common confidence interval (as it is possible with the global risk VaR calculation under ESMA's UCITS guidelines).

This proposal has the advantage of helping managers to align with other risk measures already in use and set up in their system, thus having a less resource consuming computation.

Our members are of the opinion that this measure should be accompanied by the lengthening of the 4 month period (for migration rules for the MRM) to one year as well as by the use for the PRIIPS MRM of the SRRI migration rules (indeed, the following very important rule for the stability of the indicator misses: "The synthetic risk and reward indicator shall be revised if the relevant volatility of the UCITS has fallen outside the bucket corresponding to its previous risk category on each weekly or monthly data reference point over the preceding 4 months." We would like to insist on the importance of the stability rules for the SRI as currently, the MRM migration rules cause the SRI to change much more frequently than was the case for the SRRI (knowing in addition that the SRRI migrations upward or downward were already a subject of difficulty with investors).

<ESMA_QUESTION_PRIIPS_4>

Question 5

Are you of the view that the existence of a compensation or guarantee scheme should be taken into account in the credit risk assessment of a PRIIP? And if you agree, how would you propose to do so?

<ESMA_QUESTION_PRIIPS_5>

As a preliminary remark, it should be reminded that those schemes are a last recourse option when activated and that in any case manufacturers must manage carefully their risk. In order to avoid any bias in terms of risk taking (i.e. it should not be based on assuming that a national guarantee scheme will kick in anyway), we think that such schemes should not be taken into account in the credit risk assessment. The description of the compensation or guarantee scheme is any case part of the PRIIPS KID as it is present in other sections.

.<ESMA_QUESTION_PRIIPS_5>

Question 6

Would you favour PRIIP manufacturers having the option to voluntarily increase the disclosed SRI? In which circumstances? Would such an approach entail unintended consequences?



<ESMA_QUESTION_PRIIPS_6>

Though discretionary, our members welcome this option as it can only increase the risk level and not the opposite (conservative option). It could be the case of some balanced funds or CPPI funds whose risk exposure may be sensibly augmented compared to the past. AFG members also think it may be interesting to have this option so as to help tackling potential risks not adequately captured by the calculation method.

Furthermore, the stability of the indicator is a very important matter. We strongly suggest lengthening the 4 month period (for migration rules for the MRM) to one year and using the SRRI migration rules for the PRIIPS MRM.

Indeed, regarding the PRIIPS MRM update rules, the following very important rule for the stability of the indicator is missing:

“The synthetic risk and reward indicator shall be revised if the relevant volatility of the UCITS has fallen outside the bucket corresponding to its previous risk category on each weekly or monthly data reference point over the preceding 4 months.”

Knowing that the SRRI migrations upward or downward were already a subject of difficulty with investors, we would like to insist on the importance of the stability rules for the SRI. Or, in the absence of the aforementioned SRRI rule, the MRM migration rules would cause currently the SRI to change much more frequently than was the case for the SRRI.

<ESMA_QUESTION_PRIIPS_6>

Question 7

Do you agree with an adjustment of the credit risk for the tenor, and how would you propose to make such an adjustment?

<ESMA_QUESTION_PRIIPS_7>

Our members are of the opinion that (if feasible) an adjustment of the credit risk for the tenor would be of interest, especially as the current credit risk scale does not contain seven discriminated risk classes as it is the case for Market Risk Measure. In any case, the 2 scale aggregation should not be biased further by lowering the weight of the credit risk classes compared to the market risk.

.<ESMA_QUESTION_PRIIPS_7>

Question 8

Do you agree with the scales of the classes MRM, CRM and SRI? If not, please specify your alternative proposal and include your reasoning.

<ESMA_QUESTION_PRIIPS_8>

Yes, we agree.

We strongly advocate that in any case, the 2 scale aggregation should not be biased further by lowering the weight of the credit risk classes compared to the market risk.

In addition, we would like to propose to take into account separately those PRIIPs that may lose more than the invested capital (which is a new risk degree that goes beyond the ones captured by the UCITS 7-grade SRRI our investors are accustomed to). It thus would be useful to either create a new MRM class 8



or to reserve the 7th MRM class to those PRIIPs only that may lose more than the invested capital (reserving the MRM 7 class to these products would necessitate to modify the volatility correspondence table so as to stop at the 6th class). This distinction is of utmost importance for investors.

<ESMA_QUESTION_PRIIPS_8>

Question 9

Are you of the opinion that for PRIIPs that offer a capital protection during their whole lifespan and can be redeemed against their initial investment at any time over the life of the PRIIP a qualitatively assessment and automatic allocation to MRM class 1 should be permitted?

Are you of the opinion that the criteria of the 5 year tenor is relevant, irrespective of the redemption characteristics?

<ESMA_QUESTION_PRIIPS_9>

We may agree to an automatic allocation to MRM class 1 when the capital protection is full (100%). We would advise to clearly explicit/define what is meant by “capital protection” and that it may not correspond to a legally enforceable commitment.

Yes, we agree in general with the up to 5 year tenor criteria.

<ESMA_QUESTION_PRIIPS_9>

Question 10

Are you aware of other circumstances in which the credit risk assessment should be assumed to be mitigated? If so, please explain why and to what degree it should be assumed to be mitigated?

<ESMA_QUESTION_PRIIPS_10>

AFG members strongly believe that there should be no adjustment of credit risk for investment funds. We thus heavily support paragraph 54 (p. 40) that states that the credit risk shall not be assessed for AIFs and UCITS. ESAs should add a clarifying statement that these UCITS/AIFs are therefore automatically categorised as CR1 class.

Structured funds seem to fall within the scope of Annex II, paragraph 55(c). The consequence for these funds is that credit risk has to be assessed on a look-through basis. This approach is surprising, because we do not understand why a structured fund should be treated differently from a classical bond fund investing in the same portfolio of bonds. At the very least, ESAs should recognize in paragraph 65 that in the case where the fund benefits from a third party guarantee of the payoff, the credit assessment can be decreased by 1 credit risk class. Some conditions could be put on the third party, like being a regulated financial institution.

<ESMA_QUESTION_PRIIPS_10>

Question 11

Do you think that the look through approach to the assessment of credit risk for a PRIIP packaged into another PRIIP is appropriate?

<ESMA_QUESTION_PRIIPS_11>

Yes, we agree in principle. It should be reminded however that in the case of investment funds, there is no need to look through when they are packaged into another structure (or MOP) as they do not carry credit risk.

By the way, on a close matter, many MOPs are insurance products with the underlying investment options being investment funds. Funds do not generally bear CR but insurance products do. The generic KID for the MOP should therefore show the effect of the CR of the insurer, otherwise MOPs produced by insurers with very different credit ratings will appear to carry the same overall risk for consumers.

<ESMA_QUESTION_PRIIPS_11>

Question 12

Do you think the risk indicator should take into account currency risk when there is a difference between the currency of the PRIIP and the national currency of the investor targeted by the PRIIP manufacturer, even though this risk is not intrinsic to the PRIIP itself, but relates to the typical situation of the targeted investor?

<ESMA_QUESTION_PRIIPS_12>

The currency of denomination of the PRIIPS is prominently indicated, so it is a decision of the investor to invest or not in a PRIIPS with a different currency denomination.

Factoring this investor-specific risk in the global risk indicator would mean producing several indicators for a single fund, which would severely impede cross border distribution in the EU single market. The national currency of the investor is only one element of appreciation regarding the investor's risk profile. Generally speaking, AFG members strongly believe that the PRIIPS should describe the risk of the vehicle on a stand-alone basis and should not factor in investor specific risk elements (national currency, risk appetite, liability structure, total wealth vs total wealth at risk).

AFG is of the opinion that it is more useful for end users that the KID shows the investment vehicle's intrinsic risk (on a stand-alone basis) so that investors can subsequently apply their own choices corresponding to their own risk appetite.

<ESMA_QUESTION_PRIIPS_12>

Question 13

Are you of the opinion that the current Consultation Paper sufficiently addresses this issue? Do you it is made sufficiently clear that the value of a PRIIP could be significantly less compared to the guaranteed value during the life of the PRIIP? Several alternatives are analysed in the Impact Assessment under policy option 5: do you see any additional analysis for these assessment?

<ESMA_QUESTION_PRIIPS_13>

AFG members are of the opinion that this kind of risk should be disclosed in a narrative (that is adequate as it permits to prominently identify and specify the risk), but not factored into the computation of the SRI.

<ESMA_QUESTION_PRIIPS_13>

Question 14

Do you agree to use the performance fee, as prescribed in the cost section, as a basis for the calculations in the performance section (i.e. calculate the return of the benchmark for the moderate scenario in such a way that the return generates the performance fee as prescribed in the cost section)? Do you agree the

same benchmark return should be used for calculating performance fees for the unfavourable and favourable scenarios, or would you propose another approach, for instance automatically setting the performance fees to zero for the unfavourable scenario? Please justify your proposal.

<ESMA_QUESTION_PRIIPS_14>

We severely regret that the PRIIP KID will not allow past performance to be shown. Experience with the UCITS KIID shows that investors wish to see the product's history of returns (where there is one). They have the benefit of being based on facts, and give a useful indication of the way in which a fund is run⁴.

Having said that, we generally agree to use the performance fee, as prescribed in the cost section, as a basis for the calculations in the performance section.

Nonetheless we have the following comments:

In principle, a performance fee applies when superior performance arises and it may be appropriate to demonstrate it kicks in only in the favourable scenario. The moderate scenario should represent achieving the target performance, whereby no "over" performance arises and the unfavourable scenario should represent underperformance of the target.

Also, the ESAs are considering to use the past performance of the last five years as the benchmark (Annex VI, para. 9, page 63) of the moderate scenario. This requires PRIIP manufacturers to define "unfavourable" and "favourable", which are completely different from historic performance and may lead to the wrong assumptions about performances in these two scenarios. Furthermore, such an approach would also assume that the past performance of the last five years' could always be considered a moderate performance, which may not be the case. For example, if a PRIIP substantially outperformed its benchmark in the past five years, this outperformance would now be considered as the normally expected return under the moderate scenario.

It appears too short-sighted to make the choice of relevant scenarios entirely dependent on the past results in terms of performance fees. Hence, it should be left to the discretion of the product provider whether the previous performance results which generated the performance fee are presented as a moderate or a favourable scenario depending on the extent of the achieved outperformance and the underlying development of the markets.

In particular with regards to the comparison of different types of PRIIPs, we disagree with the statement in para. 3 of Annex V (page 54), which stipulates that "in cases where products are considered to be illiquid according to Annex II part 5 paragraph 76, no information on the performance scenarios for the interim periods is required." We consider that only PRIIPs with no disinvestment possibility before the recommended holding period (RHP) should be allowed to provide only one, performance scenario for the RHP. This is important as some illiquid PRIIPs do indeed offer disinvestment opportunity before the recommended holding period, but at additional costs and/or losses, which may not be as apparent to the retail investor if not consistently disclosed in the relevant KID sections. For these types of investment, it is important also to show interim holding periods.

<ESMA_QUESTION_PRIIPS_14>

⁴ Even while past performance may not be shown in the KID, it is imperative that UCITS Management Companies and AIFMs are allowed to continue its use in their funds' fact sheets. This is essential, as at least one NCA has indicated that it sees the use of past performance graphs/data as contradicting the PRIIP KID. This is, of course, not the case, as the future performance scenarios and cost calculations are based on this very data.

Question 15

Given the number of tables displayed in the KID and the to a degree mixed consumer testing results on whether presentation of performance scenarios as a table or a graph would be most effective, do you think a presentation of the performance scenarios in the form of a graph should be preferred, or both a table and a graph?

<ESMA_QUESTION_PRIIPS_15>

Performance scenarios are not appropriate for linear products.

Performance scenarios should be used to illustrate not-easy-to-understand performance formulas

See our full comment on the introduction on § [Article 6: Performance scenarios](#)

<ESMA_QUESTION_PRIIPS_15>

Question 16

Do you agree with the scope of the assets mentioned in paragraph 25 of Annex VI on transaction costs for which this methodology is prescribed? If not, what alternative scope would you recommend?

<ESMA_QUESTION_PRIIPS_16>

We are strongly against the methodology prescribed by the ESAs to calculate potential transaction costs for a number of reasons.

First and foremost, any methodology must take into consideration that the calculation of Transaction Costs (TC) is simply a future estimate based on three years' of historic data. Its outcome can never be fully accurate, so there should be a cost-benefit trade-off in finding a suitable calculation methodology. Therefore, the proposed TC model is too burdensome to provide future estimates.

Furthermore, the proposed methodology is different from the options consulted upon in the ESAs' Technical Discussion Paper in the summer. The newly proposed model for calculating transaction costs now introduces the concept of an "arrival price" (para. 16). We understand this concept to originate from the calculation from equity pricing models, but this **methodology is unsuitable to calculate transaction costs** for the following reasons:

Inclusion of market impact at odds with MiFID II

MiFID II clearly and explicitly excludes market impact from its definition of costs. The re-inclusion through the now proposed methodology is not only legally wrong and but also provides for incorrect assumptions in calculating transaction costs. Under the proposed methodology it will be possible that a trade could incur negative transaction costs, if the market price at execution is lower than at the time of the order. This is because the market may collapse after the order is sent. This underlines that the costs would largely depend on the trading model used and is therefore unlikely to promote comparability or predictability of costs for the retail investor.

Furthermore, managers may adapt their transactions by trying to time the market, or by cutting orders into smaller parts. This is not because that will be more cost-effective for the investor (the larger number of orders suggest it may become more expensive), but because the proposed calculation method makes it appear more cost-effective (please see our comments on best execution below).

Costs of equity transactions

Fees charged in terms of equity transactions are already captured by letter (j) in paragraph 6 of Annex VI. These comprise broker fees, depositary fees, taxes and potential fees charged by specialised custodians, which already represent the total costs of equity transactions.

Costs of non-equity transactions

It is not feasible to calculate transaction costs for fixed-income trades on the basis of the proposed methodology due to the lack of reference data for establishing the relevant arrival prices. Since the arrival price shall reflect the mid-market price at the time the order to transact is initiated, the calculation of the arrival price necessarily implies availability of the relevant data on market prices. In the fixed-income market,

however, market prices are not yet transparent enough to assume this required data set⁵. **It is therefore essential that calculations on the basis of such indicative prices are not capable of establishing real transaction costs for fixed-income trades.**

Thus, AFG is in favour of a standardised table:

- **The standardised table, maintained by the ESAs, in para. 25 (page 62f) is to be used for the calculation of the spread of all transactions.**
-
- **But with one additional option: we should be able to use the actual spread as determined per individual transaction.**
- **The choice would be decided upfront either by product or by asset classes and not on case by case basis.**

<ESMA_QUESTION_PRIIPS_16>

Question 17

Do you agree with the values of the figures included in this table? If not, which values would you suggest? (please note that this table could as well be included in guidelines, to allow for more flexibility in the revision of the figures)

<ESMA_QUESTION_PRIIPS_17>

Please read this answer in conjunction with our reply to Question 16 above.

Generally speaking, it is important to note that the spread table as suggested in para. 25 (page 62f) should be part of Level-3 guidelines rather than Level-2 RTS. The reason for this is that market spreads are a reflection of market volatility and does not remain constant for a period of three years. It is crucial that this table is maintained and updated on a constant basis by the ESAs to provide a relatively accurate description of current market spreads. It is therefore necessary that the ESAs regularly and frequently back test the proposed values against actual transaction costs in existing fund portfolios to validate the levels proposed and make (yearly) updates when necessary.

We favour using a standardised spread table to calculate implicit transaction cost, which will allow for uniform calculation of transaction costs among all PRIIP manufacturers. This is especially important as the reliance on a standardised spread table will allow smaller PRIIP manufacturers to perform their transaction costs calculation without undue cost expenditures, which could put them at a competitive disadvantage.

The importance of this table is further elevated by the fact that (as explained above) market data, in particular for non-equities, will not be available for a number of years. Thus, PRIIP manufacturers will be forced to use this spread table as no other information is available.

As regards the specific table design, we suggest distinguishing between implicit and explicit costs and including a further column to accommodate the latter. Trading costs in equity instruments and listed derivatives should then be classified as explicit costs. Furthermore, we recommend distinguishing between program and no program trading also in terms of emerging market shares and assuming the explicit costs of listed derivative transaction in absolute numbers in order to reflect the prevailing market practice.

These adaptations would also help to mark out the relevance of the table for existing products as compared to new PRIIPs: whereas newly launched PRIIPs would need to apply the entire table in order to

⁵ A few data vendors such as Bloomberg publish indicative quotes for fixed-income instruments which, however, do not represent real trading quotes since brokers are under no obligation to keep the information up to date.

compute their transaction costs, funds with a relevant trading history would rely only on the assumptions for the implicit cost elements. Explicit costs incurred in existing PRIIPs which comprise in particular broker fees, depositary fees, taxes and potential fees charged by specialised custodians in case of equity transactions would be disclosed on the basis of actual transaction data according to para. 6 (j) of Annex II.

The adjusted table would then look as follows (the newly inserted values correspond with the market experience of our members):

Asset Classes	Sub Asset Classes	Implicit Cost % (Bps) (***)	Explicit Cost % (Bps) (***)
Liquidity	Money market instruments (for the sake of clarity, money markets funds not included)	1	
Government bonds	Government bonds and similar instruments developed market rating AAA-A	5	
	Government bonds and similar instruments developed market different rating below A	8	
Government bonds emerging markets (hard and soft currency)	Government bonds emerging markets (hard and soft currency)	50	
Investment grade corporate bonds	Investment grade corporate bonds	25	
High yield corporate bonds (worldwide)	High yield corporate bonds	50	
Shares developed markets	Shares developed markets		Actual costs
Shares emerging markets	Shares emerging markets		Actual costs
Listed derivatives	Listed derivatives		Actual costs
OTC	OTC Exotic options	70	
	OTC Plain vanilla options	20	
	OTC IRS, CDS and similar	1	
	OTC Swaps and similar instruments (different from IRS, CDS and similar)	20	
	OTC FX Forwards developed markets	0,5	
	OTC FX Forwards emerging markets	1	

With regards to the asset classes listed, standard industry definitions are needed that correspond to the categories offered to practitioners by data providers such as Bloomberg. UCITS eligible assets were defined by law. It would be beneficial to have also for PRIIPs at least a core set of the most important asset classes.

Question 18

Do you agree that the monetary values indicated in the first table are a sum of costs over the respective holding periods? Or should the values reflect annualized amounts? If you prefer annualized amounts, which method for annualisation should be used (e.g. arithmetic average or methods that consider discounting effects)?

<ESMA_QUESTION_PRIIPS_18>

We agree that the values should reflect annualised amounts. Otherwise, the amount disclosed would appear to suggest that higher costs are incurred the longer a fund is held while in reality as the entry and exit charges are amortised over longer periods the annual cost decreases. The lack of annualised amounts may have a dissuasive effect on the investor. We believe the arithmetic average method would probably be easier to understand for a retail investor.

The approach to cost disclosure over the respective holding periods should correspond to the presentation of performance prospects in the risk and reward section and thus presented in annualised amounts and %

We suggest taking further steps in order to enhance the comprehensibility of the Reduction in Yield concept. Specifically, the term “Reduction in Yield” should be replaced by a description readily understandable for retail investors such as “estimated impact of costs on return”.

<ESMA_QUESTION_PRIIPS_18>

Question 19

Do you think that estimating the fair value of biometric risk premiums as stated in paragraph 55(b) of Annex VI would raise any technical or practical difficulties?

<ESMA_QUESTION_PRIIPS_19>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_PRIIPS_19>

Question 20

Knowing that the cost element of the biometric risk premium is included in the total costs calculation, how do you think the investor might be most efficiently informed about the other part of the biometric risk premium (i.e. the fair value), and/or the size of biometric risk premium overall? Do you consider it useful to include the fair value in a separate line in the first table, potentially below the RIY? Or should information on the fair value be disclosed in another part of the KID (for instance, the “What is this product?” section, where the draft RTS currently disclose biometric risk premiums in total, and/or in the performance section)? What accompanying narrative text do you think is needed, and where should this be placed, including specifically narrative text in the cost section?

<ESMA_QUESTION_PRIIPS_20>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_PRIIPS_20>

Question 21

Given evidence as to the difficulties consumers may have using percentage figures, would you prefer an alternative presentation of the second table, solely using monetary values instead? As with the first table, please also explain what difficulties you think might arise from calculating monetary values, and whether this should be on an annualized basis, and if so, how?

<ESMA_QUESTION_PRIIPS_21>

The use of percentage figures would be in line with the existing UCITS KIID and, on the basis of consumer experience, are generally preferable, because actual or monetary figures could be taken literally by the investor (who might expect fixed costs and not understand if the indicated amount is different in practice). In particular, recurring costs expressed in monetary values could be misleading for the investor. We are not aware of any concerns raised by investors into UCITS as a result of using percentage figures in the KIID.

Nevertheless, we believe that these percentages should not be in the form of RIY figures based on the RHP. As the first table is showing the effect of charges, it would be most useful if the second table showed the actual cost structure, thereby enabling a proper understanding, and even replication of the cost structure in other scenarios. It is likely to be misleading to show a 5% entry cost as 1% in the hope that the investor realises that the table relates to a recommended holding period of 5 years and the 5% has been amortised. These actual percentages are also what will be used by online calculators and required by MiFID II.

Please consider our revised breakdown of costs template below for further information.

<ESMA_QUESTION_PRIIPS_21>

Question 22

Given the number of tables shown in the KID, do you think a more graphic presentation of the breakout table should be preferred?

<ESMA_QUESTION_PRIIPS_22>

Even though the KID already contains a number of tables, the vital information on costs portrayed to the retail investors necessitates a summary table as well as a detailed breakout table. The table has the decisive advantage of accommodating cost impacts for different holding periods which is difficult to accomplish in the graphic.

A more graphic presentation may oversimplify different types of costs and may make it harder to understand the differences between particular types of PRIIPs. It may also not provide the cost breakdown as required by MiFID II and should therefore be avoided.

<ESMA_QUESTION_PRIIPS_22>

Question 23

The example presented above includes a possible way of showing the variability of performance fees, by showing the level for all three performance scenarios in the KID, highlighting the 'moderate' scenario, which would be used for the calculation of the total costs. Do you believe that this additional information should be included in the KID?

<ESMA_QUESTION_PRIIPS_23>

The example proposed in the paper above Question 23 provides detailed information on performance fees but does not showcase the variability of other cost elements. Investors could be induced to assume that, since only the performance fee figures are presented as variable in different market conditions, other costs

will remain stable in any case. This impression should be avoided given that the recurring cost figure is also meant to comprise transaction costs which may vary considerably depending on the market situation and the portfolio composition at a specific point of time.

We are, thus, in favour of the summary table as well as a detailed breakout table as explained above.
<ESMA_QUESTION_PRIIPS_23>

Question 24

To reduce the volume of information, should the first and the second table of Annex VII be combined in one table? Should this be supplemented with a breakdown of costs as suggested in the graphic above?

<ESMA_QUESTION_PRIIPS_24>

We are not in favour of combining both tables, as the second table rather provides clarity on the information included in the first table. Please consider our suggested revised summary and detailed breakout tables below.

<ESMA_QUESTION_PRIIPS_24>

Question 25

In relation to paragraph 68 a) of Annex VI: Shall the RTS specify that for structured products calculations for the cost free scenario have always to be based on an adjustment of the payments by the investor?

<ESMA_QUESTION_PRIIPS_25>

Yes, the RTS could specify that for structured products, calculations for the cost free scenario have always to be based on an adjustment of the payments by the investor, as investors in structured products often have no possibility to make additional investments after the initial subscription.

<ESMA_QUESTION_PRIIPS_25>

Question 26

Regarding the first table of the cost section presented in Annex VII, would you favour a detailed presentation of the different types of costs, as suggested in the Annex, including a split between one-off, recurring and incidental costs? Alternatively, would you favour a shorter presentation of costs showing only the total costs and the RIY?

<ESMA_QUESTION_PRIIPS_26>

See Q.27

<ESMA_QUESTION_PRIIPS_26>

Question 27

Regarding the second table of the cost section presented in Annex VII, would you favour a presentation of the different types of costs showing RIY figures, as suggested in the Annex, or would you favour a presentation of costs under which each type of costs line would be expressed differently, and not as a RIY figure -expressed as a percentage of the initial invested amount, NAV, etc.?

<ESMA_QUESTION_PRIIPS_27>

As explained above, we are in favour of showcasing both a summary table and a more detailed breakdown table as suggested by the ESAs.

The currently proposed summary table on page 73 is nevertheless a hybrid between a summary and breakdown table. We recommend a simpler summary table followed by a more detailed breakdown.

By way of introduction, please note the following:

- As the first table is showing the effect of charges, it would be most useful if the second table showed the actual cost structure, thereby enabling a proper understanding, and even replication of the cost structure in other scenarios. It is likely to be misleading to show a 5% entry cost as 1% in the hope that the investor realises that the table relates to a recommended holding period of 5 years and the 5% has been amortised. These actual percentages are also what will be required by MiFID II and will be used by online calculators.
- While in favour of the reduction-in-yield methodology, we question whether the concept “RIY” is understood by the average retail investor. We therefore propose (see comments on Annex VII’s presentation of costs) to describe RIY in plain language such as “equivalent annual percentage rate”.
- The ESAs’ proposal misses a link to the performance scenario, i.e. indicating that the costs are based on the moderate performance scenario.
- Each of the detailed cost items should be shown only if relevant. The below example showcasing a fund’s costs should thus delete the lines on “exit costs”, “insurance costs”, “carried interest” and “exit penalties” in the final version.

See our proposal below

What are the costs?			
This section tells you the effect that costs might have on what you get back from your investment and explains the different types of costs. The amounts shown are the costs of this product. Your adviser or the person selling you this product will tell you about any additional costs of distribution not included in these amounts.			
Estimate of costs over time		Over 5 years (recommended)	
If you invest €1,000		Over a year	Over 3 years
Total impact of costs over each time period		€ 53	€ 85
Equivalent annual percentage rate		5,3%	2,6%
<p>The table above shows you the estimated impact of costs on what you might get back from your investment. To see what you might get back after these costs you should read the performance scenarios section of this document.</p> <p>The table above is based on the moderate performance scenario and assumes you invest €1,000 and leave it invested for the time periods shown. The costs used are estimated based on data from the past and therefore are likely to be different in the future.</p>			
The costs explained			
One-off costs taken before or after your money is invested			
Entry costs	3,00%	This is the maximum that might be taken out of your money before it is invested. In some cases you might pay less.	
Exit costs		This is the maximum that might be taken out of your money before the proceeds of your investment are paid to you. In some cases you might pay less.	
Costs taken from the product over a year			

Recurring costs	0,80%	This is taken from your investment each year to cover the costs of managing and operating the product. The figure shown is based on actual costs for the year ending xx/xx/xx.
Insurance costs		This is taken from your investment each year to cover the cost of your insurance cover. The figure shown is based on actual costs for the year ending xx/xx/xx.
Transaction costs	0,50%	This is incurred each time the fund's underlying investments are bought and sold. The figure shown is the yearly average for the last three years. These costs vary depending on the frequency of buying and selling and the nature of the investments involved.
Costs taken from the product under certain specific conditions		
Performance fees	1,00%	We charge a performance fee of 20% of any outperformance only when the product outperforms its benchmark, the [name of benchmark]. The figure shown is the yearly average for the last five years. The performance fee varies depending on the performance of both the product and the benchmark and may not arise at all.
Carried interest		Our carried interest in the product is 20% of the profits generated each year. The figure shown is the yearly average for the last five years.
Exit penalty/Exit cost		An exit penalty will apply if you leave early. The figure shown is the maximum which applies if you leave in the first year. The exit penalty does not apply if you hold the product for at least five years. (N.B. The intention is to cover any penalties/costs that are not included in the one-off "exit costs")

Specific tables for For real estate funds

- Fees should be expressed in % of the **net assets (NAV) as well as of the gross assets (GAV)**. The gross asset represents the value of the real estate assets; the net asset is the gross value less the borrowing made to acquire the assets. The gross asset figure gives the investor more accurate information on the fund and allows for comparison between funds. This dual display has been validated by French regulator. Of course, fees are always perceived on the net asset basis.
- Furthermore, we suggest clarifying the term **"capital expenditure"**. They should not be included in the RiY together with operating expenses when they are linked to the construction of new elements on the property and they are not qualified as "repair, renewal and replacement works"; These kind of "capital expenditures" are capital investments made directly on the assets with the effect of increasing the value of the assets (e.g. the area extension of a building, implementation of air-conditioning systems when none before, etc....). There aren't charges for the investor as they are taken into account in the increase of value of the building. The fund performance isn't impacted by such costs.

As for "operating expenditure" and Capital expenditure which are linked to "repair, renewal and replacement works" in France, the regulator allows disclosing these real estate charges on a separate line as it doesn't remunerate external service providers. They are inherent in the real estate assets (real estate taxes, works, insurances..).

We suggest maintaining this possibility in the table showing different types of costs.

For real estate transaction costs, we request to remove them from the recurring costs, as a compulsory subscription fee (paid to the fund) is paid by the investor, in the aim of participating to the real estate transaction costs generated by the acquisition of properties due to the subscription.

This fee offsets the transaction costs with an accounting mechanism and avoids therefore to impact the fund's performance.

If the transactions cost are maintained, they will be taken into account in the RIY twice: a first time in the One-off costs and a second time in the recurring costs.

- This method will skew the information communicated to the investors through the KID and will penalize French real estate funds such as OPCI.
- Our proposal:

Investment (€1000)	if you cash in after [1] year	if you cash in after [5] year	if you cash in after [8] year (recommended)
one-off costs	50,00	50,00	50,00
+ Recurring costs	22,75	101,75	161,00
+ Incidental costs	-	-	-
= Total costs	72,75	151,75	211,00
RIY on NAV	0,73%	1,52%	2,11%
RIY on GAV	0,56%	1,17%	1,62%

		On NAV	On GAV	
one-off costs	Entry Costs ¹	5,00%	3,85%	Impact of entry costs taken before investment [this is the maximum you could pay less]
	Exit Costs	0,00%	0,00%	Impact of exit costs taken when you exit the investment upon maturity
+ Recurring costs	Portfolio transaction costs per year ²	0,30%	0,23%	Impact of recurring costs taken from your investment each year. [the figures shown are based on our costs for the last year]. The figures cover all recurring costs, including annual management costs, operating expenses, and portfolio transaction costs
	Real Estate Opex and Capex ³	8,24%	6,34%	
	Other recurring costs per year	7,56%	5,82%	
+ Incidental costs	Performance fees	0,00%	0,00%	Impact of performance fees taken where the performance ...[]

¹ the entry fees will be used to cover the costs and taxes related to the acquisition and disposal of the real estate assets

² on the financial instruments held in the fund if any

³ for capex that are not qualified as "repair, renewal and replacement works"

Others comments on Costs of investments funds (AIFs and UCITS)

We understand that this list of costs of investment funds is based on the currently applicable CESR guidelines. In particular, it seems that the underlying motive for this new cost list was to define as many costs as possible with different terminologies, instead of describing the underlying reason(s) for these types of costs to occur in the first place. This creates unnecessary ambiguities that can be avoided by using the approach used in the UCITS KIID guidelines. In particular, since it already covers all costs described in the "one-off" and "recurring" section.

One-off costs

Keeping our above comments in mind, we ask for further clarification of what is meant by a cost "borne by the fund" (para. 2). Our understanding would be that such a cost is a recurring cost rather than a one-off cost. Additionally, we do not understand the term "loading costs" (para. 3(b)) and wonder whether this is the same as subscription costs?

Second, with regards to para. 6(h), we are unsure what is meant by “related parties” and ask for further clarification.

Page 58, §6 (i): we agree on the wording, but we strongly disagree with the explanatory text on page 79. **Option premiums are not costs.** Generally speaking, the total price paid to invest into an asset (whether it is a stock, a bond or an option) is not a cost. Only a little part of the total price is cost (like brokerage fee). Furthermore, this explanatory text contradicts §18(c) on page 61.

Page 59, § 6 (q): This seems to refer to implicit costs of derivatives entered into by funds. Those derivatives often do not qualify as PRIIPs, so their implicit costs will not be disclosed by counterparties. §37 and following could not be applied, because asset managers are not able to compute the “fair value” with the same accuracy as investment banks. If the implicit costs incurred by funds have to be disclosed, then regulation should oblige counterparties (investment banks) to disclose them to asset managers.

Wrong reference: we believe that para. 6(q) contains a drafting error, it should be referencing either “section II” not “paragraph 2”, or para. 37 (page 65) which discusses “implicit costs of PRIIPs other than investments funds”.

Page 61, §18(b): this paragraph is incomprehensible and in contradiction with §6(q) on page 59 (different methodology).

Page 65, §32: we suggest adding the following item: “direct or indirect costs associated to the structure of the product in relation to prudential requirements (own funds, liquidity,...)”.

In §36, we suggest adding the following item: “any recurring cost similar to those listed in paragraph 32”.

<ESMA_QUESTION_PRIIPS_27>

Question 28

Do you have any comments on the problem definition provided in the Impact Assessment?

Are the policy issues that have been highlighted, in your view, the correct ones? If not, what issues would you highlight?

Do you have any views on the identified benefits and costs associated with each policy option?

Is there data or evidence on the highlighted impacts that you believe needs to be taken into account?

Do you have any views on the possible impacts for providers of underlying investments for multi-option products, and in particular indirect impacts for manufacturers of underlying investments used by these products, including where these manufacturers benefit from the arrangements foreseen until the end of 2019 under Article 32 of the PRIIPs Regulation?

Are there significant impacts you are aware of that have not been addressed in the Impact Assessment? Please provide data on their scale and extent as far as possible.

<ESMA_QUESTION_PRIIPS_28>

From discussions with practitioners we are of the view that clarification in many respects is still needed. According to Art.6 Para. 7 of the draft RTS (on page 25 of the Consultation Paper), the ESAs will also legally be required to establish further guidelines. As a result, it will be very difficult, and probably impossi-

ble, for many product manufacturers to make available a PRIIP KIDs as from January 2017. A delay in implementation is therefore essential.

The exemption granted by Article 32 of the PRIIP KID Regulation for UCITS and the many other nationally regulated retail funds that produce the UCITS KIID should not be undermined by conflicting rules applicable to other PRIIP providers. The unsatisfactory situation presented on page 123 of the Consultation Paper (first bullet point under the section *MOPs Costs*) should be taken into account with high priority by the legislator before the new rules are finalised.

As drafted, the MOP rules would require a very large number of investment funds to produce both a UCITS KIID and information for a PRIIP KID, at least until 31 December 2019. This would also undermine the review by the Commission pursuant to Article 33 of the PRIIP KID Regulation. Moreover, and very importantly, it would result in confusing information for investors, with the core features of risk, performance and costs presented differently in the two documents.

We think that this approach submitted to consultation by ESAs is not in line with the Level 1 text. Article 6(3) of the PRIIP KID Regulation stipulates that in the case of MOPs “the key information document shall provide at least a generic description of the underlying investment options and state where and how more detailed pre-contractual information documentation relating to the investment products backing the underlying investment options can be found.” In our view, this wording does not imply provision of a PRIIP KID for each of the underlying investment option. On the contrary, when combined with Article 32 it should be read as allowing the provision of the UCITS KIID as pre-contractual information on any UCITS or AIF benefitting from the exemption under Article 32 until end 2019.

Against this background, we urge the ESAs to reconsider this approach having regard to the wording of Article 6(3) of the PRIIP KID Regulation and the EU legislator’s deliberate choice to spare investment funds providing a UCITS-like KIID from the duty to implement new information standards by end 20s16 until end 2019.

Overall, however, we expect that the impact of the Level 2 measures on the fund industry in terms of both financial resources and operational efforts will then be much higher than expected by the EU legislator.

Many fund management companies will be effectively compelled to set up internal projects in order to provide their business partners from the insurance sector with PRIIPs-compliant SRI, performance scenarios and cost figures.

Such elements should in principle be delivered well ahead of the entry into force of the PRIIP KID Regulation in order to enable insurance companies to produce PRIIPs KIDs on unit-linked insurance products on time.

Since the specific standards for MOPs were not discernible before publication of the draft RTS in November 2015 (and are still unclear today), most fund providers have not yet assigned specific budgets or set up business projects for PRIIP KID implementation.

If they had to be planned and implemented as a matter of urgency, such projects would probably entail disproportionately high costs. **In any case, it is utterly inappropriate to assume that above all things fund providers must be ready for the PRIIP KID regime going live well ahead of its formal implementation date even though they manage the only sort of PRIIPs for which a temporary exemption from scope applies.**

Last but not least, we require further clarification with regards to Recital 20⁶ that a periodic review of the KID is required only if the PRIIP manufacturer is actively supporting the distribution of a PRIIP on the secondary market. We are aware of instances where funds have been sold on the secondary market without the knowledge of the PRIIP manufacturer.

In such cases it should be the obligation of the distributor (and not the manufacturer) to ensure that an up-to-date KID exists when an investor intends to purchase a PRIIP on the secondary market.

⁶ Recital 20 states that “[...] *The trading of a PRIIP on a secondary market however would not exempt the PRIIP manufacturer from the obligation to continue to review and revise the key information document for that PRIIP.*”



In other words, it must be ensured that there is no obligation for the PRIIP manufacturer actively to scrutinise the secondary market simply to ensure that its products are not sold without an up-to-date KID even though this was not intended by the manufacturer.

<ESMA_QUESTION_PRIIPS_28>