JOINT COMMITTEE OF THE EUROPEAN SUPERVISORY AUTHORITIES

# Response form for the Joint Consultation Paper concerning amendments to the PRIIPs KID

16 October 2019

Date: 16 October 2019
ESMA 30-201-535

European Securities and Markets Authority

EUROPEAN BANKING AUTHORITY

EUROPEAN INSURANCE AND OCCUPATIONAL PENSIONS AUTHORITY

JOINT COMMITTEE OF THE EUROPEAN SUPERVISORY AUTHORITIES

## Responding to this paper

The European Supervisory Authorities (ESAs) welcome comments on this consultation paper setting out proposed amendments to Commission Delegated Regulation (EU) 2017/653 of 8 March 2017[1] (hereinafter "PRIIPs Delegated Regulation").

The consultation package includes:

- The consultation paper
- Template for comments

The ESAs invite comments on any aspect of this paper. Comments are most helpful if they:

- contain a clear rationale; and
- describe any alternatives the ESAs should consider.

When describing alternative approaches the ESAs encourage stakeholders to consider how the approach would achieve the aims of Regulation (EU) No 1286/2014[2] (hereinafter "PRIIPs Regulation").

### Instructions

In order to facilitate analysis of responses to the Consultation Paper, respondents are requested to follow the below steps when preparing and submitting their response:

- Insert your responses to the questions in the Consultation Paper in the present response form.
- Please do not remove tags of the type <ESA_QUESTION_PKID_1>. Your response to each question has to be framed by the two tags corresponding to the question.
- If you do not wish to respond to a given question, please do not delete it but simply leave the text "TYPE YOUR TEXT HERE" between the tags.
- When you have drafted your response, name your response form according to the following convention: ESA_PKID_nameofrespondent_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESA_PKID_ABCD_RESPONSEFORM.

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[1] COMMISSION DELEGATED REGULATION (EU) 2017/653 of 8 March 2017 supplementing Regulation (EU) No 1286/2014 of the European Parliament and of the Council on key information documents for packaged retail and insurance-based investment products (PRIIPs) by laying down regulatory technical standards with regard to the presentation, content, review and revision of key information documents and the conditions for fulfilling the requirement to provide such documents

[2] 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), OJ L 352, 9.12.2014, p. 1.

- The consultation paper is available on the websites of the three ESAs and the Joint Committee. Comments on this consultation paper can be sent using the response form, via the ESMA website under the heading 'Your input - Consultations' by **13 January 2020**.

- Contributions not provided in the template for comments, or after the deadline will not be processed.

**Publication of responses**

All contributions received will be published following the close of the consultation, unless you request otherwise in the respective field in the template for comments. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with ESAs rules on public access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by ESAs Board of Appeal and the European Ombudsman.

**Data protection**

The protection of individuals with regard to the processing of personal data by the ESAs is based on Regulation (EU) 2018/1725[3]. Further information on data protection can be found under the Legal notice section of the EBA website and under the Legal notice section of the EIOPA website and under the Legal notice section of the ESMA website.

[3] Regulation (EU) 2018/1725 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, OJ L 295, 21.11.2018, p. 39.

## General information about respondent

| | |
|---|---|
| Name of the company / organisation | Actuarial Association of Europe |
| Activity | Non-financial counterparty |
| Are you representing an association? | Yes |
| Country/Region | Belgium |

## Introduction

***Please make your introductory comments below, if any:***

<ESA_COMMENT_PKID_1>
• The implementation of the PRIIPs regulation induced an increase of legal insecurity due to the difficulties to implement the standard as some of the requirements are lacking the clear implementation examples. It required in a number of cases efforts of interpretation that may give rise to contest and generate a significant legal risk for the insurers with possible prudential outcomes.

• Many stakeholders expressed they were unsatisfied with some aspects of the standard, and specifically with the performance scenarios. The AAE expressed its own concerns with regards to the consumer protection risks induced by those scenarios.

• Therefore, when noticing with interest the ESAs intention to remedy to these difficulties with performance scenarios, the AAE remains very sensitive to the fact that any methodological requirement must be assessed with regards to its ability to lead to reliable results for different products within the scope that are understandable by the consumer, and to its ability to be reasonably implemented (limited complexity, suitability to the various product's configurations encountered…). It is important that this objective is met through introduction of coherent and consistent methods instead of introduction of quick fixes.

• AAE had already the opportunity to express that it was not in favour of quick-fix solutions and promoted a full review of the standard, in order to address the structural problems raised. We do not see that the current review meets this objective. From a pragmatic point of view, taking into account the efforts already deployed by insurers and the questionable understandability of the PRIIPs KID for the consumer, the AAE was not in favour of enriching the information already required with new requirements, such as adding past performance figures to existing performance scenarios.

• AAE expresses its concerns with regards to several proposals included in the consultation paper. Some of the proposed methods become even more complex than the current methods, which will make the results and figures disclosed even more difficult for the consumer to understand and will increase the legal and technical risk involved in establishing these figures. The aims of transparency, comprehensibility and comparability stated in the PRIIPs Regulation appear to be in danger if the changes which are described in the consultation to PRIIPs RTS would be implemented. While it is a standard approach to use the concept of risk premia it is not clear how this fits consistently into the existing methodology for categories 2 and 3. Also the different methods for determining the risk premia for different assets do not seem to form one consistent approach. That point illustrates the conjunction of technical complexity and loss of consistency. On the contrary, the simpler approaches contemplated by the consultation paper may merit further consideration and an in-depth study as they may represent interesting alternatives.

• AAE recognizes the importance of the matters addressed by the PRIIPs regulation in the perspective of the CMU and is willing to contribute to the elaboration of an efficient regulation. In relation to these matters, AAE had the opportunity to underline the great heterogeneity of the insurance markets and products, whether at national or European level. The success of any regulatory solution requires to duly take into account this heterogeneity, without excluding proportionate methodological adaptations when required by products specificities. A one-size-fits-all approach is problematic if it leads to inappropriate representation of certain products.

AAE underlines the benefits that would bring an in depth and comprehensive review including level 1 review. In any case, a quick fix approach on level one should be avoided. in this regard, it should be stated that, would we have a satisfactorily revision of level 2, important issues raised by level 1 would nevertheless remain.
<ESA_COMMENT_PKID_1>

**Q1 : Are there provisions in the PRIIPs Regulation or Delegated Regulation that hinder the use of digital solutions for the KID?**

<ESA_QUESTION_PKID_1>
If the question relates to the way the disclosure should be made to the customer, the faculty to rely on digital disclosure (indication of a link to a website) is necessary.
If the question relates to consumers accessing KIDs through tablets / smartphones, the format of the KID is not compatible with such devices as there is too much information contained in these documents.
Also, the provision that allows member states request pre-filing of KIDs means that, if applied strictly, it is not possible to create an 'on-demand' digital KID or to customise a KID to a customer while also pre-filing.

We suggest to explicitly require by the EU regulation the duty towards local regulators to provide clear role model example, as the guidance to the industry. We would welcome if the national regulators would prior coordinate their requirements across the EU regulators so the implementation across the EU would be consistent.
<ESA_QUESTION_PKID_1>

**Q2 : Do you agree that it would be helpful if KIDs were published in a form that would allow for the information to be readily extracted using an IT tool?**

<ESA_QUESTION_PKID_2>
On a consumer protection point of view, the possibility to extract information using an IT tool does not make much sense, it is also necessary to take into account the technical difficulty.

Although PRIIPs documentation is devoted to individual consumers, we understand that some interest could be found in allowing the supervision authorities to extract on a larger scale the information. For example, the European PRIIPs Template (EPT) provides mainly quantitative information and does not seem suitable for other products than the MOP's underlying options. If all manufacturers were to provide KID information in such a standardised format (that remains to be defined), this would probably facilitate possible analytical exercises by national regulators and consumer advisers provided they have the necessary technology. However, an appropriate template would need to be adapted/created and extended to all PRIIPs products. Bearing in mind that the KID is customer-oriented and that past experience suggests that one should be particularly cautious about the burden of this regulation, we are concerned that requiring all manufacturers to provide KID information in the same EPT format could lead to additional compliance costs and risks that would not outweigh the satisfaction of this hypothetical need.
<ESA_QUESTION_PKID_2>

**Q3 : Do you think that the amendments proposed in the consultation paper should be implemented for existing PRIIPs as soon as possible before the end of 2021, or only at the beginning of 2022?**

<ESA_QUESTION_PKID_3>
Regarding the review clause, our view is that there may be a consensus among all European actors (and stated at the Public Hearing in Frankfurt) to postpone the implementation as late as possible (2022 at least) and not to have to conduct a piecemeal review. European authorities, on the basis of level 2 compliance, propose a consumer testing at the end of January and an implementation by the end of 2021 at the latest.
A comprehensive review would take less efforts to get implemented and a later deadline would be required to achieve a sufficient standard of quality.
Therefore only one change should be made (i.e. all changes together) and at the beginning of 2022 at the earliest. Changing the process of producing KIDs is a large project for companies.
<ESA_QUESTION_PKID_3>

**Q4 : Do you think that a graduated approach should be considered, whereby some of the requirements would be applied in a first step, followed by a second step at the beginning of 2022?**

<ESA_QUESTION_PKID_4>
In line with our previous feedback, the preferred approach would be to decide upon the full range of desired amendments first and then to make all changes in one move. This would be less confusing for customers and would minimise effort and cost to the industry.
<ESA_QUESTION_PKID_4>

**Q5 : Are there material issues that are not addressed in this consultation paper that you think should be part of this review of the PRIIPs Delegated Regulation? If so, please explain the issue and how it should be addressed.**

<ESA_QUESTION_PKID_5>
(1) The filing requirements of some countries are onerous, costly and **may be** not consistent **due to the specificity of the products that cannot be adequately caught by the regulation**. This is a barrier for small companies to cross-border business **with little proven benefit for customers**.

(2) The setting of the RHP may need further consideration as significant deviations in practice among companies is reducing comparability of KIDs.

(3) **In relation to the difficulties mentioned on point 1 of Q5,** further guidance and worked examples based on actual products typical for each EU member state would improve consistency of approach as there are different interpretations of the legislation used.

(4) Funeral insurance, even provided on a life long basis with surrender value, and ***life-long annuities are*** not investment products, **and** must be taken out of the scope.
<ESA_QUESTION_PKID_5>

**Q6 : Do you have comments on the modifications to the presentation of future performance scenarios being considered? Should other factors or changes be considered?**

<ESA_QUESTION_PKID_6>
The continued use of past performance for the volatility part of the calculation leads to a mixed approach with the worst of all worlds (from a practical perspective) i.e. the need to develop a mean return for each PRIIP using asset allocation or strategy data but also the need to capture and use past performance data also. The proposed new approach with standard returns for asset classes should be extended such that volatility metrics are used consistently in the performance scenario calculations.

Reducing the number of figures presented in the table will aid consumer understanding. However, if intermediate scenarios are removed then customers should still be made aware of any early exit penalties and the impact these will have on their return if they exit early.
<ESA_QUESTION_PKID_6>

**Q7 : If intermediate scenarios are to be included, how should they be calculated for Category 3 PRIIPs (e.g. structured products)? If intermediate scenarios are not shown in the performance section, which performance assumption should be used for the 'What are the costs?' section?**

<ESA_QUESTION_PKID_7>
In the event that intermediate scenarios are removed, the information related to potential costs due to having surrender the contract before the RHP is over must still be disclosed to the customer.

As we are not entirely sure of the meaning of "intermediate scenario", if it means "moderate scenario" and not scenario at half the RHP : the methodology should still be based on moderate scenario but with flexibility to add text highlighting the costs may be higher or lower under different scenarios
<ESA_QUESTION_PKID_7>

**Q8 : If a stress scenario is included in the presentation of future performance scenarios, should the methodology be modified? If so, how?**

<ESA_QUESTION_PKID_8>
We support the removal of the stress scenario with the addition of a warning that returns may be worse than those shown in the unfavourable scenario.
<ESA_QUESTION_PKID_8>

**Q9 : Do you agree with how the reference rate is specified? If not, how should it be specified?**

<ESA_QUESTION_PKID_9>
This approach could be considered as an improvement but these parameters should be set/prescribed by a central authority to ensure consistency in approach and comparability. The precise granularity of the required yield assumption should be specified e.g. how different types of equities are treated. Also it is not clear how the growth assumption for bonds would be set.

We draw the regulator's attention to the fact that the dividends received do not seem adequate in terms of access to relevant information for the consumer. Whenever this approach may be relevant with regards to its ability to inform about the potential performance of an underlying -which should only be partially the case - insurers would face a very difficult task, with low benefit with regard to its complexity. It may not be realistic.
<ESA_QUESTION_PKID_9>

**Q10 : The revised methodology specifies that the risk premium is determined by future expected yields. The methodology further specifies that future expected yields should be determined by the composition of the PRIIP decomposed by asset class, country and sector or rating. Do you agree with this approach? If not, what approach would you favour?**

<ESA_QUESTION_PKID_10>
The reference rates should be set for a limited number of asset classes by the ESAs to ensure consistency across providers and to remove the timing element (e.g. dividend yield is still based on past performance and will depend on when calculated). Otherwise the approach will create significant work / complexity for companies in implementation, and lead to divergent practices in determining growth rates.

Same remark as question 9 regarding the relevancy of information on dividends received for customers.
<ESA_QUESTION_PKID_10>

**Q11 : The ESAs are aware that historical dividend rates can be averaged over different time spans or that expected dividend rates can be read from market data providers or obtained from analyst reports. How should the expected dividend rates be determined?**

<ESA_QUESTION_PKID_11>
Should be set by ESAs periodically and be based on the expected long-term future yield (not historical data).

Same remark as question 9 regarding the relevancy of information on dividends received for customers.
<ESA_QUESTION_PKID_11>

**Q12 : How should share buyback rates be estimated?**

<ESA_QUESTION_PKID_12>

This question is interesting from a theoretical point of view, but the solutions seem extremely complex and difficult to implement.
Regulation should not create too many difficulties. This point provides a topical example of the complexities that must be avoided.
<ESA_QUESTION_PKID_12>

**Q13 : Do you agree with the approach for money-market funds? Are there other assets which may require a similar specific provisions?**

<ESA_QUESTION_PKID_13>
Subject to the same remarks as question 9, the proposed approach for money-market funds is an improvement on the current methodology.
<ESA_QUESTION_PKID_13>

**Q14 : The methodology proposes that the future variance be estimated from the 5-year history of daily returns. Should the volatility implied by option prices be used instead? If so, what estimate should be used if option prices are not available for a particular asset (equities namely)?**

<ESA_QUESTION_PKID_14>
The methodology assumes the PRIIP manufacturers have access to a large amount of data. This is likely to be difficult and costly to obtain in many cases. This could be addressed by a central authority setting the growth rate and volatility parameters.
This proposal seems unrealistic.
<ESA_QUESTION_PKID_14>

**Q15 : Do you think compensatory mechanisms for unforeseen methodological faults are needed? If yes, please explain why.**

<ESA_QUESTION_PKID_15>
In order to meet the need for transparency towards consumer and in particular through the comparability of the KID products offered, a single homogeneous mechanism between insurers should be preferred in the context of future performance scenarios (no use of compensatory mechanisms in particular), given the wide variety of products in scope of the regulation a safeguard is needed to avoid misleading disclosures to customers. However, this should only be used in extreme cases and should require notification to local regulators. Care must be taken that widespread use of compensatory mechanisms does not detract from comparability.
Nonetheless, were products so different that they would require such a mechanism, then the regulation should clearly consider the possibility to establish separate requirements, possibly under local supervision.
<ESA_QUESTION_PKID_15>

**Q16 : Do you favour any of the options above? If so, which ones? How would you ensure that the information in the KID remains comparable for all products?**

<ESA_QUESTION_PKID_16>
We would support lowering the unfavourable scenario to match the manufacturers' expectation of an unfavourable outcome, if the unfavourable scenario is considered to be unrealistic. However, it should not be permitted to make blanket adjustments to render the content of the KID meaningless (e.g. changing all growth rates to zero).
<ESA_QUESTION_PKID_16>

**Q17 : Are there any other compensatory mechanisms that could address unforeseen methodological faults? If yes, please explain the mechanism; explain how it ensures that scenario information in the KID allows investors to compare PRIIPs, and explain how the information for similar products from different manufacturers remains sufficiently consistent.**

<ESA_QUESTION_PKID_17>
See Question 15
<ESA_QUESTION_PKID_17>

**Q18 : What are your views on the use of a simplified approach such as the one detailed above, instead of the use of probabilistic methodologies with more granular asset specific requirements?**

<ESA_QUESTION_PKID_18>
The benefit of a probabilistic scenario is limited as long as we have access to data on past performance, which is mainly the case for category 2 products. Probabilistic scenarios are definitely too complex for category 2 and 3 products, so that their limits and uncertainties may be understood by a consumer, namely the fact that they rely on past performance without disclosing it clearly. Furthermore, they are complex to implement, legally and theoretically questionable and for several reasons (relevance of the assumptions used, taking into account the effects of inflation, etc.) they may have a restricted significance for very long term products.
Therefore we would welcome alternative approaches that could alleviate the aforementioned drawbacks. As far as we understand the proposed simplified methodology, it would consist in a kind of "what-if" approach. If so, it should be applied on the basis of a differentiated rate (min, average, max) for each scenario. This rate must be provided by the regulator for each category 2 and 3 asset (unsatisfactory response for the Euro fund). Generally, for more complex assets, one should assess the ability to apply the method without generating new complexities (when combining different assets for example or taking into account asset liabilities mechanisms).
To this regard and provided that the point would be in depth investigated with all the consequences induced to other products, "what-if" scenarios can be better suited for the performance scenarios.
<ESA_QUESTION_PKID_18>

**Q19 : Do you consider the use of a single table of growth rates appropriate? If no, how should the methodology be amended?**

<ESA_QUESTION_PKID_19>
Yes. Future returns are inherently unknown and which markets will perform better or worse in future is also unknown and most likely is not informed by what happened historically. Therefore a simple equity/bond/property/cash model is appropriate and also the message that the future is not predictable is supported by that simplified approach. However, the growth rates should be prescribed/supplied by ESAs or else manufacturers will apply different approaches and the resulting documents will not be comparable.
Considering the "what if" scenarios approach, the scenarios to be applied should differ for products with different risk-return profiles. The what if scenarios should reflect the product’s riskiness in terms of how the overall level and the spread between different what if scenarios should change for different levels of risk as indicated by the product’s risk indicator.
It is important to make sure that the methodology is appropriate for complex assets too (standard portfolios or general account), which cannot be assessed in the context of this consultation and would require significant additional work.
<ESA_QUESTION_PKID_19>

**Q20 : More generally, do your views about the use of a probabilistic methodology vary depending on the type of product (e.g. structured products vs non-structured products, short-term**

**vs long-term products)? For which type of products do you see more challenges to define a probabilistic methodology and to present the results to investors?**

<ESA_QUESTION_PKID_20>
See question 18. Structured products are one kind of products that may justify a specific treatment, but products with participation features are specific products too, with very large differences among them. The possibility to consider adapted methodology should be more widely considered, keeping in sight the goal of comparability and looking for a reasonable balance.
<ESA_QUESTION_PKID_20>

**Q21 : Do you think these alternative approaches should be further assessed? If yes, what evidence can you provide to support these approaches or aspects of them?**

<ESA_QUESTION_PKID_21>
A simpler approach would be preferred and aid customer understanding of the disclosures. The application of so-called “what if scenarios” provides an easy and – if appropriately calibrated – nevertheless meaningful methodology to address the uncertainty of potential future returns to the customer.
<ESA_QUESTION_PKID_21>

**Q22 : Are there any other approaches that should be considered? What evidence are you able to provide to support these other approaches?**

<ESA_QUESTION_PKID_22>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_22>

**Q23 : Do you think illustrative scenarios should be included in the KID as well as probabilistic scenarios for structured products?**

<ESA_QUESTION_PKID_23>
The introduction of illustrative scenarios in the KIDs could be a good initiative that should apply to all products offered and not only to structured products, as long as it would replace probabilistic approach.
<ESA_QUESTION_PKID_23>

**Q24 : If not, do you think illustrative scenarios should replace probabilistic scenarios for structured products?**

<ESA_QUESTION_PKID_24>
see question 23
<ESA_QUESTION_PKID_24>

**Q25 : Do you agree with this approach to define PRIIPs which would show illustrative performance scenarios using the existing definition of Category 3 PRIIPs? If not, why not? Where relevant, please explain why this approach would not be appropriate for certain types of Category 3 PRIIPs?**

<ESA_QUESTION_PKID_25>
There is a wide range of product types in Category 3. In particular, illustrative scenarios can be appropriate for structured products but not necessarily for other Category 3 PRIIPs products more generally.

A consistent approach shall be applied to all of the products considered (where meaningfully possible) and, if any specificity had nevertheless to be taken into account, one should pay attention to exclude the possibility of cherry picking the methodology by the providers.
In line with this concern for consistency and subject to the aforementioned investigation work, the introduction of illustrative scenarios in the KIDs could be a good initiative that should apply to all products offered and not only to structured products, as long as it would replace probabilistic approach.
<ESA_QUESTION_PKID_25>

**Q26 : Would you be in favour of including information on past performance in the KID?**

<ESA_QUESTION_PKID_26>
Past performance may be easily assessed for some product types, such as non-structured UCITS-funds, but it may prove to be impossible to assess for other product types, such as structured PRIIPs or some types of insurance-based investment products, especially for path dependent products.
When possible, inclusion of past performance has the benefit of improving understanding of a fund's investment profile. However, we note the risks associated with translating past performance into future performance. Therefore inclusion of past performance should be presented in accurate, fair, clear terms, with sufficient history and with clear caveats (or warnings) that the performance shown refers to the past and past performance is not a reliable indicator of future results. It is also important to indicate if the performance is shown gross or net of fees.
The inclusion of past performance should not come across as the most prominent feature on the KID and should be complementary to other key information in the KID. In any way, the combination of past performance information with the other scenarios would be confusing and should be avoided.
<ESA_QUESTION_PKID_26>

**Q27 : Would your answer to the previous question be different if it were possible to amend Article 6(4) of the PRIIPs Regulation?**

<ESA_QUESTION_PKID_27>
No in as much they had to cohabitate with performance scenarios (see question 26). Companies are free to show past performance in documents other than the KID. There is currently too much information on the KID which could be removed in order to include historic returns which would be more relevant.
<ESA_QUESTION_PKID_27>

**Q28 : Do you think that it can be more appropriate to show past performance in the form of an average (as shown in the ESA proposal for consumer testing) for certain types of PRIIPs? If so, for exactly which types of PRIIPs?**

<ESA_QUESTION_PKID_28>
Showing past performance in the form of an average has the danger of hiding the extreme readings that make up the average, not showing volatility. In addition, using averages could set an incorrect expectation that the average return is a fair expectation of future returns – which might be true for some funds but certainly not for all funds.
Where possible and subject to the reservations expressed above, we think it would be appropriate to show past performance across different time periods, certainly to include longer time periods (such as 10 years). Average performances are appropriate for certain type of funds (private equity or illiquid portfolios that take time to build up); in any case we are of the opinion that average performance should be in addition to other performance measures rather than being the sole measure of past performance.
<ESA_QUESTION_PKID_28>

**Q29 : Do you have any comments on the statement that would supplement the display of past performance (e.g. with regard to the presentation of costs which are not included in the net asset value (NAV))?**

<ESA_QUESTION_PKID_29>
No comment. Warnings already displayed in KIID is enough.
<ESA_QUESTION_PKID_29>

**Q30 : Are you of the opinion that an additional narrative is required to explain the relationship between past performance and future performance scenarios?**

<ESA_QUESTION_PKID_30>
It should be clear that past performance is not a reliable indicator of future performance (same problem with the present methodology for performance scenarios but, in this latter case all the more damaging as the use of past performance is not explicit). The narrative should also encourage readers to consider all information (i.e. not just look at past performance and discount future performance and vice versa). We do not recommend to mix both approaches. To this regard, a methodology that attempts to model the relationship between past and future performance would be far too technical and complex for the consumer, a complexity that an illustrative text would not be sufficient to clarify (see 26).
<ESA_QUESTION_PKID_30>

**Q31 : Do you see merit in further specifying the cases where the UCITS/AIF should be considered as being managed in reference to a benchmark, taking into account the provisions of the ESMA Questions and Answers on the application of the UCITS Directive[4]?**

<ESA_QUESTION_PKID_31>
Yes. A clear distinction should be made between funds that aim to track the performance of a benchmark, funds that aim to outperform a reference benchmark and funds that are not managed to any reference benchmark. But this feature should be already addressed in the 'What is this product?' section.
<ESA_QUESTION_PKID_31>

**Q32 : Do you see the need to add additional provisions for linear unit-linked insurance-based investment products or linear internal funds?**

<ESA_QUESTION_PKID_32>
Insurance products have early surrender fees (many operate on a sliding scale) - this needs to be clearly called out in the KID.
<ESA_QUESTION_PKID_32>

**Q33 : Do you agree that a fixed intermediate time period / exit point should be used instead of the current half the recommended holding period to better facilitate comparability?**

<ESA_QUESTION_PKID_33>
Not fully in agreement.
The current half the recommended holding period provides a logical transition between the first period (1 year) and the last period (recommended holding period). The messaging is clear in this sense: this is the cost associated if the investment is redeemed relatively quickly (first period), the next column shows the cost if investors redeemed halfway through the recommended period and the last column is the associated costs if investors held for the full recommended period.
Using a fixed intermediate time holding period may make sense but in our opinion would require additional holding periods shown, such as 3 years, and 5 years. This could work for investors who think in those terms rather than the recommended holding period but risks confusion.
The use of an intermediate time period/fixed exit point instead of half of the recommended conversation period for KID comparability does not seem entirely justified.

[4] See "Section II – Key Investor Information Document (KIID) for UCITS" (in particular, Q&A 8) of the Q&A document available at: https://www.esma.europa.eu/sites/default/files/library/esma34-43-392_qa_ucits_directive.pdf

<ESA_QUESTION_PKID_33>

**Q34 : In this case (of a fixed intermediate time period), do you agree to show costs if the investor would exit after 5 years for all PRIIPs with a recommended holding period of at least 8 years? Or do you prefer a different approach such as:**

<ESA_QUESTION_PKID_34>
If a fixed intermediate time period is used, we would agree with using 5 years as a fixed intermediate period for all PRIIPs with a recommended holding period of at least 8 years. For longer term products– for instance those above 15 years – it may also be appropriate to show the costs for 10 years.
For all PRIIPs that have a recommended holding period lower than 8 years, then it would be appropriate to show costs for 3 years and 5 years. Overall, the need to show estimates of costs should be balanced against overcomplicating the information provided.
<ESA_QUESTION_PKID_34>

**Q35 : Do you think it would be relevant to either (i) use an annual average cost figure at the recommended holding period, or (ii) to present both an annual average cost figure and a total (accumulated) costs figure?**

<ESA_QUESTION_PKID_35>
The latter approach could be more beneficial for investors who do not invest for the recommended holding period. It would be prudent to assume that not all investors would invest for the recommended holding period. Thus the latter approach would be more useful for a wider audience.
<ESA_QUESTION_PKID_35>

**Q36 : Do you think that it would be helpful, in particular for MiFID products, to also include the total costs as a percentage of the investment amount?**

<ESA_QUESTION_PKID_36>
While this is informative, in particular for PRIIPs that have one-off entry costs - showing total costs as a percentage would help illustrate the investment hurdle required to “make good on the costs”. Nevertheless, there is a concern in relation to information overload in KIDs and, for the sake of consistency, information based on different methodologies should not be provided to the consumer.
<ESA_QUESTION_PKID_36>

**Q37 : In this context, are there PRIIPs for which both performance fees and carried interests are applied?**

<ESA_QUESTION_PKID_37>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_37>

**Q38 : Do you agree with this analysis from the ESAs? If yes, what are your views on the extent to which fees related to the management of the underlying real estate assets, i.e. the properties themselves, should be taken into account in the calculation of the cost indicators?**

<ESA_QUESTION_PKID_38>
Using management of the real estate asset as an example, this is a cost that is ultimately borne by the investor and therefore should be taken into account in the calculation of cost indicators. Stripping this out and showing this as part of the cost indicator, we feel, would enable a fairer comparison between PRIIPs. If possible, an estimate along with realised cost could be shown.
<ESA_QUESTION_PKID_38>

**Q39 : Do you agree with the ESAs' preferred option 3 to revise the cost tables?**

<ESA_QUESTION_PKID_39>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_39>

**Q40 : If not, which option do you prefer, and why?**

<ESA_QUESTION_PKID_40>
None of the options appears to bring a clear improvement in general but some elements might be used such as the simplification of table 1 in option 3 or option 4. As it is simpler, there is less room for confusion for the consumer. But the emphasis on monetary values is critical, as these to not translate well to different holding periods and different premium options.
<ESA_QUESTION_PKID_40>

**Q41 : In particular, do you think that the proposed changes to the presentation of the impact of costs on the return in percentage terms (i.e. including reduction in return before and after costs) is an improvement on the current presentation?**

<ESA_QUESTION_PKID_41>
Putting aside limitations around estimation of returns, presentation of cost impact pre and post cost is helpful to illustrate the impact of costs.
<ESA_QUESTION_PKID_41>

**Q42 : Do you have other comments on the proposed changes to the cost tables?**

<ESA_QUESTION_PKID_42>
When considering very long term products, monetary values induce a distortion, with amounts that may be very high, but could be far more advantageous than lower amounts stemming from higher fee rates, but perceived on a shorter timeframe.
<ESA_QUESTION_PKID_42>

**Q43 : What are your views on the appropriate levels of these thresholds? Please provide a justification for your response.**

<ESA_QUESTION_PKID_43>
It would be difficult to set specific levels of thresholds across all PRIIPs given the differences in underlying assets and strategies. A buy and hold credit strategy would have and should have very different thresholds to an active credit strategy. In addition, the active credit strategy could in theory go through a period where it behaves more like a buy and hold credit strategy. This means that it is hard to have pre-set thresholds in place to accurately capture transaction costs.
Furthermore, the problem with thresholds is that verification mechanisms must be put in place when the threshold is reached. In this case, the complete system must also be implemented in IT terms. In this respect, threshold values do not reduce the testing and implementation effort.
We note that the slippage methodology also captures market impact – in volatile market environments (or for volatile assets), this can be a big component of costs which means that any estimate of costs on this basis would not be a fair reflection of future costs. We propose that "slippage" should be removed from the calculation and just physical, well-understood and easily accessible transaction costs (e.g. stamp duty, broker fees, custody fees, etc.) should be shown.
<ESA_QUESTION_PKID_43>

**Q44 : If UCITS would fall in the scope of the PRIIPs Regulation, do you agree that the coexistence of the UCITS KII (provided to professional investors under the UCITS Directive) and the PRIIPs KID (provided to retail investors under the PRIIPs Regulation) would be a negative outcome in terms of overall clarity and understandability of the EU disclosure requirements? Are you of the view that the co-legislators should therefore reconsider the need for professional investors to receive a UCITS KII, as the coexistence of a PRIIPs KID together with a UCITS KII (even if not targeted to the same types of investors) would indeed be confusing, given the differences in the way information on costs, risks and performance are presented in the documents? Alternatively, are you of the view that professional investors under the UCITS Directive should receive a PRIIPs KID (if UCITS would fall in the scope of the PRIIPs Regulation)?**

<ESA_QUESTION_PKID_44>
AAE shares the view that the coexistence of two documents for the same product, that would not be disclosed under the same circumstances according to the regulation framework to be observed through the distribution process, would result in most confusion for the consumer. The KID is a well-known document with a long track record, and that proved to give a satisfactorily information to the consumer
<ESA_QUESTION_PKID_44>

**Q45 : What are your views on the issue mentioned above for regular savings plans and the potential ways to address this issue?**

<ESA_QUESTION_PKID_45>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_45>

**Q46 : Do you agree that these requirements from Article 4 should be extended to all types of PRIIPs, or would you consider that it should be restricted to Management Company of UCITS or AIFs?**

<ESA_QUESTION_PKID_46>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_46>

**Q47 : Do you agree that this requirement should be extended to all types of PRIIPs, or would you consider that it should be restricted to Management Company of UCITS or AIF?**

<ESA_QUESTION_PKID_47>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_47>

**Q48 : Do you agree that these requirements should be extended to all types of PRIIPs, or would you consider that they should be restricted to the Management Company of the UCITS or AIF?**

<ESA_QUESTION_PKID_48>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_48>

**Q49 : Do you have any comments on the proposed approaches in relation to the analysis and proposals in this Section, and in particular on the extent to which some of the abovementioned requirements should be extended to other types of PRIIPs?**

<ESA_QUESTION_PKID_49>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_49>

**Q50 : Do you think this proposal would be an improvement on the current approach?**

<ESA_QUESTION_PKID_50>
The proposal put forward (selection of up to 4 options or a combination of options usually used) once again raises the issue of comparability between insurers and is in contradiction (risk) with the duty to provide advice (that require to encompass any suitable solution to the client needs). Whenever there are no packaged solution proposed by the insurance contract (such as standard portfolio) but only an allocation left to the client's discretion, the options would result in selecting 4 underlyings (such as : the general account/Euro fund and three popular UCITs) on the single basis of their selling figures, which is meaningless since each isolated underlying option can generally not match the consumer needs, that requires a diversified investment.
<ESA_QUESTION_PKID_50>

**Q51 : Do you envisage significant practical challenges to apply this approach, for example for products which allow the investor to choose between a wide range or large number of options?**

<ESA_QUESTION_PKID_51>
The documentation issued by the providers of the underlying options - whether relying on KIID or consisting in PRIIPs KID - should provide all of the necessary information. Related to the answer, there should not be significant theoretical difficulty in doing this for more than 4 investment options given that the functionality will still need to be built but the burden for data management may increase rapidly.
Furthermore, this approach will still likely lead to wide ranges and not account for combinations of the underlying investment options. A better approach - and the only one that can be implemented in practice in a systematic way - is to split the manufacturer's cost of the MOP from the external investment options cost, and allow the two to be added by the consumer. This could be supplemented with an upper and lower number to show the range for the overall combination (taking care to be clear that this is not to be confused with the MOP cost only).
<ESA_QUESTION_PKID_51>

**Q52 : Do you see any risks or issues arising from this approach in relation to consumer understanding, for instance whether the consumer will understand that other combinations of investment options are also possible?**

<ESA_QUESTION_PKID_52>
The main risk will be misleading consumers in relation to the level of costs involved. It will be important to communicate that only the most frequent options have been used, and other costs may apply.
<ESA_QUESTION_PKID_52>

**Q53 : Do you think this proposal would be an improvement on the current approach?**

<ESA_QUESTION_PKID_53>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_53>

**Q54 : Are there other approaches or revisions to the requirements for MOPs that should be considered?**

<ESA_QUESTION_PKID_54>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_54>

**Q55 : Do you have any comments on the preliminary assessment of costs and benefits?**

<ESA_QUESTION_PKID_55>
Many of the changes proposed would result in a significant re-build of process/systems to collect data, perform calculations & create documents.
That would lead to actuarial, IT, legal, training costs.
<ESA_QUESTION_PKID_55>

**Q56 : Are you able to provide information on the implementation costs of the proposed changes, in particular regarding, (1) the proposed revised methodology for performance scenarios (using a reference rate and asset specific risk premia), and (2) the overall changes to the KID template?**

<ESA_QUESTION_PKID_56>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_56>

**Q57 : Are there significant benefits or costs you are aware of that have not been addressed?**

<ESA_QUESTION_PKID_57>
actuarial, IT, legal, training costs.
<ESA_QUESTION_PKID_57>