efama

European Fund and Asset Management Association

EFAMA's comments on the joint Discussion Paper on Key Information Documents for Packaged Retail and Insurance-based Investment Products (PRIIPs) [JC/DP/2014/02]

1. Do you have any views on how draft RTS for the KID might be integrated in practice with disclosures pursuant to other provisions?

EFAMA[1] sees the work on the draft regulatory technical standards (RTS) an essential opportunity to align the PRIIPs Regulation with MiFID II, IMD I & II and UCITS (incl. other relevant legislations and regulations) so that all cost disclosure requirements are coherent and consistent across these different legislative frameworks. A prerequisite of how this might work in reality should be a clarification under MiFID II that the disclosure of costs and charges in the PRIIPs KID represents a sufficient measure of product costs for inclusion in the calculation of an aggregated costs and charges figure covering the investment advice services.

We are fully aware that the timelines for the PRIIPs KID and MiFID II are not perfectly aligned and differ slightly by a few months (PRIIPs comes into force on 31 December 2016 whereas MiFID II already does so by 03 July 2016). Nonetheless, this alignment is paramount and should be the overall aim of the PRIIPs Level-2 measures.

In the meantime, in order not to confuse the retail investor, great emphasis must be put on avoiding that the RTS's requirements are contradicting with other Directives and Regulations that have the same purpose and objective (e.g. UCITS have been exempted for 3 years due to the existence of the UCITS KIID) or that several different disclosures having to be presented to the client at the same time in slightly different format and content.

Furthermore, in relation to products within the scope of the PRIIPs Regulation we welcome the clarifications drawn from table 2 (p. 12f).

[1] EFAMA is the representative association for the European investment management industry. EFAMA represents through its 26 member associations and 61 corporate members almost EUR 17 trillion in assets under management of which EUR 11 trillion managed by 55,000 investment funds at end September 2014. Just under 36,000 of these funds were UCITS (Undertakings for Collective Investments in Transferable Securities) funds. For more information about EFAMA, please visit www.efama.org

2: Do you agree with the description of the consumer´s perspective on risk expressed in the Key Questions?

We generally agree with the description of the consumer´s perspective on risk expressed in the Key Questions, since most of these key questions already form the basis of the UCITS KIID and its SRRI, which were consumer tested, are already applied by UCITS management companies and are now familiar to investors.

3: Do your agree that market, credit and liquidity risk are the main risks for PRIIPs? Do you agree with the definitions the ESA's propose for these?

Generally speaking, we agree with the ESAs' proposal to classify market, credit and liquidity risk as the three main risks for a PRIIP. Also, we make some detailed remarks on the proposed risk categories:

In terms of market risk, we encourage the ESAs' to build their work on the conclusions of the UCITS SRRI which has already proved its usefulness for the past two years.

In the light of our comments to Q5 and the need for the KID to enable meaningful comparisons between different types of PRIIPs, it is essential to enable off-balance products such as funds to highlight that they provide no or little credit risk as the investor is not exposed to the risk of failure of the product provider itself or any other obligor.

When considering liquidity risk(s), the ESAs should also consider the following factors:

- the surrender value of a PRIIP during different stages of its life cycle (e.g. a life insurance policy's surrender value may fall below the invested capital in the first few years);
- any time delay between a request to redeem the investment and its effective execution (in some cases it might take several months between requesting an (early) pay-out for products with a fixed or long-term product horizon and the consumer receiving the proceeds);
- we do not agree with the ESAs' assessment that the act of listing has any relevance to a PRIIP's liquidity (please see our answer to Q4 for further details);
- the liquidity risk for UCITS is low in comparison with other types of PRIIPs. In practice, most UCITS provide daily redemptions and the manager is required to run the fund in such a way as to honour this commitment, while the depositary provides oversight in interest of investors.

From a fund perspective, the terminology used in this Discussion Paper differs considerably from the notion of market and liquidity risk applied for the purpose of risk management/calculation for investment limits and, most importantly, described in the fund prospectus in accordance with the UCITS Directive. We are concerned that the Level-2 measures should not lead to contradicting information being disclosed in the UCITS prospectus and the PRIIPs KID that would create issues in terms of coherence and liabilities, and therefore confusion for investors. This issue could become immediately relevant for some retail AIFs which follow the UCITS standards regarding information to be provided in the prospectus and would affect UCITS after the end of the exemption period.

Last but not least, we would strongly caution against the use of certain language in the table on page 23 which uses wording like "How much can I win?" & "How much am I likely to win?". This language is more akin to the realm of gambling than investments and clearly would not support the Commission's plans (on the Capital Markets Union) to provide more long-term retail savings to the European real economy. Instead, we would strongly prefer language such as "How much am I likely to get?".

Also, the phrase "Can I get my money back at any moment?" should be reworded to make clear that the money in question is rather the current value at the date of the redemption request and not necessarily the invested amount.

4: Do you have a view on the most appropriate measure(s) or combinations of these to be used to evaluate each type of risk? Do you consider some risk measures not appropriate in the PRIIPs context? Why? Please take into account access to data.

In line with our answer to Q5 below, we are of the strong view that market, credit and liquidity risk cannot be integrated into a single risk indicator and that a multi-risk indicator should be used.

Instead of completely redeveloping a new methodology for market risk, we believe that the existing UCITS SRRI (which has already proven its effectiveness over the past two years) should simply be extended to all types of PRIIPs.

With regards to table 6 (p. 29) on liquidity risk, the key aspect from the viewpoint of retail investors relates to the possibility and timeframe of disinvesting.

This means that liquidity risk should be based on the specific characteristics of the exit arrangements (qualitative measures). Only after establishing the applicable exit arrangements, appropriate quantitative measures as suggested in section 3.4.3. can be applied. For instance, the absence of a secondary market for a PRIIP (aspects (i) and (ii) of the exit arrangements) does not automatically result in a high liquidity risk. Most investment funds offer their investors daily redemption opportunities at a price calculated on the basis of the fund's NAV. Such redemption opportunities should qualify as "organised liquidity facilities" (aspect (iii) of the exit arrangements), but cannot be assessed on the basis of the proposed quantitative criteria which reflect specificities of secondary market trading.

Thus, different quantitative criteria should apply in case of products not traded on secondary markets in the first place, in particular investment funds and insurance contracts. In relation to these, liquidity risk should be primarily measured against (1) the time it takes to receive the proceeds when one disinvests and (2) the price of such disinvestment (e.g. exit charges or costs of cashing in early).

5: How do you think market, credit and liquidity risk could be integrated? If you believe they cannot be integrated, what should be shown on each in the KID?

We recommend that market, credit and liquidity risks are not integrated into a single risk indicator. Such an approach would unnecessarily expose retail clients to oversimplified risk aggregation that will provide too general information and will not allow them to compare the different risk profiles characteristic of different PRIIPs types (see example below).

If – at a later stage of the KID development and based on clear results of the consumer testing – it is decided to use a single-risk indicator, we advise the ESAs to provide measures to counteract these simplifications that should still allow retail investors to understand the underlying differences in risk between the same type (e.g. passive FTSE 100 tracker fund vs actively managed emerging debt fund) as well as different PRIIPs types (e.g. funds vs structured products). In such a case of an aggregated indicator, equal weighting must to be given to each of the three risk components in its calculation (1/3 market risk and 1/3 credit and 1/3 liquidity risks), as the combination of risk types is arbitrary in nature and should additionally not weight any type of risk more important than another.

For example:

- Of the three main risks, market risk will always be the predominant risk type for a UCITS and will vary according to its investment objective.
- On the other hand, UCITS should display a low level of credit risk, when compared to PRIIPs that are on the manufacturer's balance sheet. UCITS' underlying assets are held in custody by a depositary that is liable for their safe-keeping and the diversification requirements minimise exposure to any one issuer or counterparty.
- Liquidity risk for the UCITS retail investor is low, as the UCITS must provide the possibility to redeem at least twice a month[2] (in practice, most UCITS provide for daily redemption) and the manager is required to run the fund in such a way as to honour this commitment in all but very exceptional circumstances, while the depositary provides oversight in the interest of investors.

As regards the presentation of the indicators, we urge the ESAs to take full account of the previous consumer testing of the UCITS KIID, which clearly demonstrated the merits of a scale-based risk indicator.

6: Do you think that performance scenarios should include or be based on probabilistic modelling, or instead show possible outcomes relevant for the payouts feasible under the PRIIP but without any implications as to their likelihood?

As regard the choice between a "hypothetical" (i.e. "outcomes without any implications as to their likelihood") and a "probabilistic" scenario, we believe it particularly important to await further

[2] Directive 2009/65/EC; Article 76(1): "A UCITS shall make public in an appropriate manner the issue, sale, repurchase or redemption price of its units each time it issues, sells, repurchases or redeems them, and at least twice a month. […]"

discussion on the base of the proposed technical Discussion Paper and the outcome of the consumer texting exercise, which should specifically test consumers' understanding of the difference.

In general, with a "hypothetical" scenario the prime feature of differentiation for some PRIIPs would be the level of costs because the return of the product is linearly correlated to the underlying and its market movements. For products with structured returns a hypothetical scenario will show how structuring works and affects the return which is not linearly correlated to market movements.

With a "probabilistic" scenario, we believe that past performance remains the most reliable indicator on the basis of validated and confirmed figures that accurately disclose how the product has behaved under specific conditions and should therefore be used as a basis for further calculations. Historical performance data should therefore be used as the basis for any performance scenario. Nevertheless, it should also be remembered that ESMA's recent Working Paper[3] underlined that a "probabilistic" scenario may be difficult for retail investors to fully understand its hypothesis and underlying assumptions. As a prerequisite it would need to be ensured that any underlying assumptions are defined in such a way that they are (i) applicable to all PRIIPs, (ii) the use of overly optimistic assumptions and (iii) do not show certain types of PRIIPs in a more favourable light than others.

Finally, and independently of the performance scenario assumptions scenarios, two notions have to be sufficiently clear from the outset. First, a clear distinction has to be made between the risk indicators and the performance scenarios. For investor comprehension, it is essential not to overlay too many pieces of information, each serving a different purpose, into a single section of the KID (see our answer to Q14). Second, one should consider the purported objectives these performance scenarios aim to achieve. These can be to show either the cumulative effect of costs on a reduction in yield (RIY) basis or the effects of market volatility using historical/statistical data or even a combination of both. The answer to this question will greatly influence the conclusions drawn in the upcoming technical work to achieve these goals.

7: How would you ensure a consistent approach across both firms and products were a modelling approach to be adopted?

Most importantly, due to varying costs structures between different types of PRIIPs, it is essential that the performance scenarios should be portrayed net of cost, in order to allow retail investors to assess the impact of costs on their returns in one place.

We support a consistent approach across both manufacturers and products that should provide the same specification for all PRIIPs. As models improve over time, their approach should be flexible enough for the ESAs to adopt new and improved models after appropriate consultation and testing, and with sufficient advance notice to allow all PRIIPs manufacturers to update their systems accordingly.

[3] ESMA's working paper on "Real-world and risk-neutral probabilities in the regulation on the transparency of structured products" [ESMA/WP/2015/1; link]

As an example of the above, it is thus essential that there is a common approach to the pricing used across all PRIIPs. For example, a fund should use the share price or the NAV as both are calculated daily or on each purchase/redemption day. In this case it should be the share price that is used, as this is the price at which the consumer would buy/sell.

For further deliberation on the performance scenarios, please consider our reply to Q10 below.

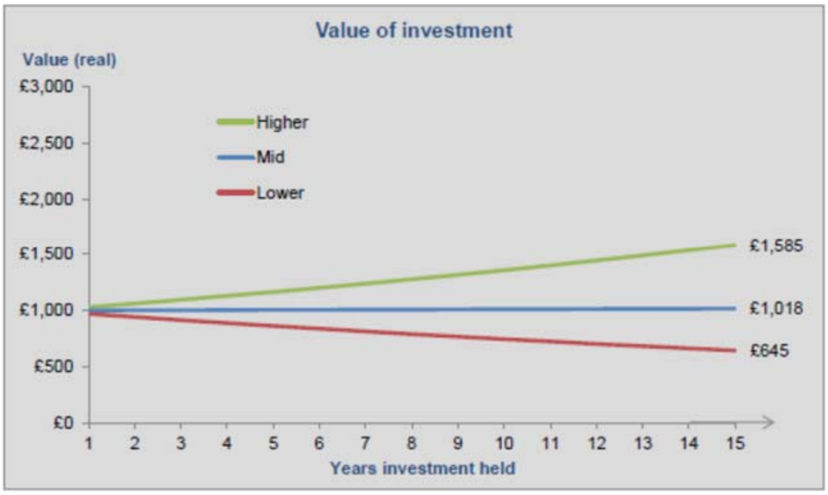
8: What time frames do you think would be appropriate for the performance scenarios?

Given the wide range of PRIIPs available on the market, we suggest that five time frames be consumer tested to allow for a consistent approach across both firms and products:

(1) 1 year
(2) 3 years
(3) 5 years
(4) 10 years
(5) Product lifetime/recommended (minimum) holding period

Most importantly, these time frames have to be linked to the PRIIP's costs and need to be consistent with the time frames used in the cost disclosure section of the KID.

In terms of presentation, we have a preference for a graph covering a rolling period similar to the example on the left top of page 43 (cf. our answer to Q13 below), but showing percentage growth (see our answer to question 9. This would necessarily account for the mentioned timeframes and indeed present the expected performance over time, thus avoiding an undue focus on particular time points.



9: Do you think that performance scenarios should include absolute figures, monetary amounts or percentages or a combination of these?

We preliminarily suggest to follow the existing UCITS standards (i.e. percentages based on net valuation at the beginning and the end of the period), wherever this is sensible for the PRIIP in question.

In case a decision was taken to require the scenarios to be based on an initial investment expressed as a specific monetary amount, it is essential not to hardwire an exact investment amount in Euros into the Level-2 measures for all Member States as this would lead to arbitrary numbers in other currencies that will fluctuate with the exchange rates. The amount should be determined by the National Competent Authorities and should be a whole amount that is as close as possible to the Euro figure.

10: Are you aware of any practical issues that might arise with performance scenarios presented net of costs?

Performance scenarios must be presented net of all costs. Not doing so will make it impossible for retail investors to compare expected returns and costs and will make it needlessly harder to understand the different KID sections. Investors must be able to easily grasp the PRIIP's yield prospects without being forced to make their own calculations by referring to other KID sections. Moreover, gross scenarios might induce investors to underestimate the effect of costs on the performance. For instance, certain products with surrender values falling below the invested amount in the first years or with relatively high exit costs will look more appealing if performance presentation disregards the effect of costs.

Again, we reiterate our belief that past performance remains the most reliable indicator, using validated and confirmed figures that accurately disclose how the product behaves under specific market conditions. Product costs depend on many factors which cannot be established in advance, e.g. fund volume, performance, trading activities etc. Hence, in line with the recommended use of historical data for the purpose of performance presentation, we are of the view that netting of costs should be conducted on an ex-post basis. Rules similar to the UCITS KIID regulation (see additional third page of the UCITS KIID for structured UCITS) should apply to new products that do not yet have any past performance data.

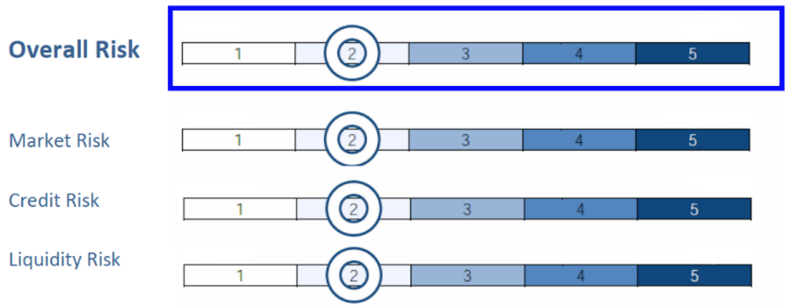
11: Do you have any preferences in terms of the number or range of scenarios presented? Please explain.

This section should always carry a disclaimer (similar to UCITS KIID) informing investors that these scenarios are based on historic data and/or assumptions about the future and that they cannot be a certain guide to future performance.

12: Do you have any views, positive or negative, on the different examples for presentation of a summary risk indicator? Please outline advantages and disadvantages, and provide any other examples that you are aware of that you think would be useful.

The summary risk indicator as shown on the top of page 37 of the Discussion Paper will be recognised by many consumers, as it stems from the UCITS KIID, which has been in operation for two years. It is a tested method to present risks to consumers, who are generally positive about this form of presentation.

In line with our previous comments, but allowing for further comparability between products, we would thus argue in favour of a multi-risk scale (as presented on the bottom of p. 39), as all three main aspects of risk (market, credit and liquidity risk) are visualised by means of an indicator and are given equal presence. If it is decided to integrate the respective individual risks into an overall risk indicator then all risk elements should be weighted equally and be accompanied with a brief narrative. In line with the UCITS SRRI, which was consumer tested, we recommend that the indicator be a scale of seven (i.e. 1-7). These visual elements should engage consumers because all relevant risks are shown in an understandable manner. Such presentation also enhances the comparability of different PRIIPs because all risk types can easily be assessed when retail investors compare different types of PRIIPs. Since some risks are more relevant than others for certain PRIIP types, showing indicators for all risks ensures a balanced presentation.



These visual elements for risk should be supplemented by a visual element that describes the relationship between risk and return, e.g. the visual element shown on the top of page 37 of the Discussion Paper. It is key for each investment decision to understand that typically lower risks correlate with typically lower rewards and vice versa. In order to describe the required risk-reward profile, it must be made clear to retail investors that there is a link between risk and reward. This would be appropriately shown by this visual element, which is well-known and tested in the UCITS KIID.

With regards to the other options presented by the ESA, we would argue that comparisons such as that on page 40, which compare the PRIIP with similar products, would not be feasible as they would require further assumptions by the NCAs to determine "similar products", and there would be subsequent and additional liability issues for the product manufacturer.

13: Do you have any views, positive or negative, on the different examples for presentation of performance scenarios? Please outline advantages and disadvantages, and provide any other examples that you are aware of that you think would be useful.

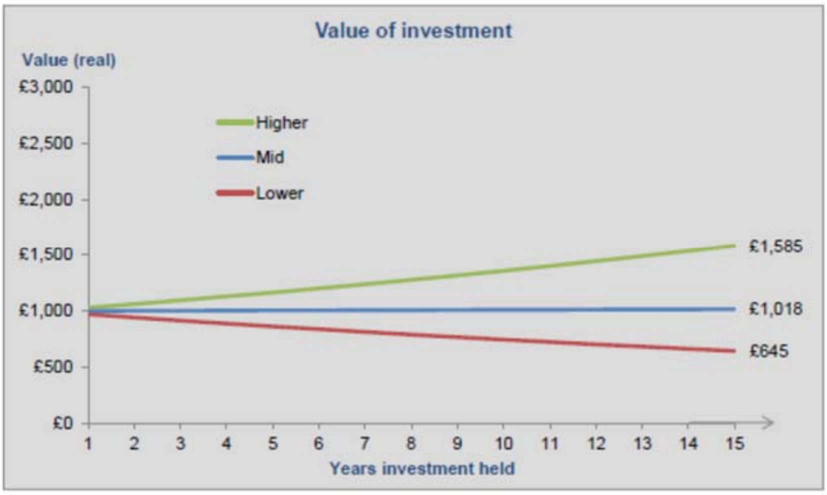
The right calibration of the performance scenarios will allow the KID to be understandable to retail investors as well as allowing comparisons between different types of PRIIPs.

To reach these objectives, the methodology used to prepare the presentations is decisive. If the methodology is not reliable and robust (or cannot be properly supervised), the scenarios are of little use or can even be misleading. This would most certainly be the case if the performance scenarios were not standardised, but rather based on assumptions chosen unilaterally by product manufacturers. This standardisation should be based on the basic assumptions and parameters (i.e. interest rates environment, probability of different kind of scenarios, etc.) that are then used by product manufacturers to create their individualised performance scenarios.

Although past performance per se is not a feature of the KID (as compared to the UCITS KIID), it should nonetheless form a basis for the performance scenarios and be used as the starting point for the calculation of the performance figures. We note that the presentation of past performance was tested and approved by consumers during the UCITS KIID consultation process and has been used since 2012. It is a recognised and meaningful visual illustration of product performance for investors.

Standardised scenarios, which should be prescribed by the ESAs, should allow for enough flexibility in terms of adapting to changing market conditions (after sufficient time for market players to adapt their KIDs). Furthermore, it has to be made sufficiently clear to the retail investor that these conditions are prescribed and merely provide assumptions about possible future outcomes along the lines of the current UCITS KIID disclaimer.

Among the examples contained in the discussion paper, we have a clear preference for the graph displayed on the top of page 43 left-hand side. This presentation appears engaging, understandable and comparable and should be very useful for investors provided that it is based on a reliable and robust methodology.



In line with our answer to Q10 above, we advocate performance presentation net of costs, in order to present credible outcomes to investors. In this regard, performance scenarios currently required for structured UCITS, which are also presented net of costs, should be considered as a model for further work by the ESAs.

14: Do you have any views on possible combinations of a summary risk indicator with performance scenarios?

We have a preference for the combination option 3B as presented in table 9 on page 44. This means that risks and performance should be depicted separately, but within one section of the PRIIPs KID as foreseen by the Level-1 Regulation.

Given the importance of the information on risk and reward, we recommend using the necessary space to show separate risk indicators for market, credit and liquidity risk as well as multiple performance scenarios. However, it could be appropriate to display multiple performance scenarios in one visual element as in the example at the top left of page 43.

15: Do you agree with the description of the consumer´s perspective on costs expressed in the Key Questions?

We have no comments on the description of the consumer's perspective as provided on page 51f. The only remark we have on point 8 of the table ("How do these costs compare to other products?") is that this question can be answered only by looking at the KIDs for different types of PRIIPs (rather than one single KID). We believe that this question gives further substance to our argument that any type of performance scenario should be presented net of costs (see our answer to Q10 and Q20) to show the compounded effect of costs.

16: What are the main challenges you see in achieving a level-playing field in cost disclosures, and how would you address them?

Achieving a level-playing field in cost disclosures, i.e. for all types of PRIIPs, is one of the central objectives that must be satisfactorily met through the final Level-2 measures. Currently, and particularly for UCITS, a wide array of slightly diverging requirements for cost disclosure exist through the UCITS KIID Regulation, MiFID II and the PRIIPs Regulation.

This level playing field for retail investors can be achieved through two features that necessarily have to provide a certain trade-off in terms of (i) comparability of different PRIIPs types and (ii) the reliability of cost disclosure for unknown future conditions. From the outset, it has to be made abundantly clear to the investor that while ex-post figures are definitive, ex-ante disclosures have some level of uncertainty around them, which requires two distinctive set of disclosures.

(i) Equal degree of transparency for all PRIIPs

Investment funds are transparent in terms of costs. They do not only charge explicit fees that are known to investors ex-ante (such as management fee, depositary fee, etc.), but also follow common standards in disclosing ex-post the overall costs deducted from a fund on a yearly basis (so-called "ongoing charges" (OCF) for UCITS, previously known as "total expense ratio" or TER). Since insurance-based investment products or structured products involve implicit costs for which no generally acknowledged measure exists so far, the main challenge will be to make the costs of these PRIIPs transparent and to introduce standardised calculation methods that will ensure comparability of investor information in a way equivalent to the current UCITS rules.

(ii) Ex-ante versus ex-post disclosure

The Level 1 Regulation requires disclosure of "direct and indirect costs to be borne by the retail investor" and hence seems to adopt an ex-ante view. However, many cost elements are known only ex-post and can be disclosed with a satisfactory accuracy only after the close of an accounting period. For investment funds, this relates in particular to transaction costs and performance fees. Hence, we believe that historical data should be allowed to be used as a proxy for future costs in cases where a product's cost history can be deemed representative. For performance fees this may be misleading, as the existence of the application and amount of the fee will be depended on the future return. In relation to transaction costs, it is also not possible accurately to anticipate the exact level of transaction costs in relation to the future management of the fund's portfolio.

In the case of expected changes and for new products, estimations should be made in line with the standards for the UCITS KIID[4]. Moreover, cost disclosure should be accompanied by an explanatory statement clarifying the illustrative nature of the provided information (cf. also our comments on Q26 below).

[4] See CESR's guidelines on the methodology for calculation of the ongoing charges figure in the Key Investor Information Document (CESR/10-674) from 1 July 2010.

Additionally, we would like to express our strong support for ESMA's technical advice to the Commission with regards to product cost disclosures. ESMA correctly highlighted that the PRIIPs KID would be the correct place to fulfil the MiFID II requirements while allowing for cost disclosures that are applicable for all PRIIPs. Without the PRIIPs KID satisfying the MiFID II requirements, the KID will simply become another disclosure document that will have to be provided to retail investors alongside additional MiFID II disclosures on product costs. Only if the MiFID II requirements are recognised as fulfilled by the PRIIPs KID will retail investors be able to receive "one-stop" product cost disclosure that reduces instead of increases the documentation for retail investors received when buying financial products.

17: Do you agree with the outline of the main features of the cost structures for insurance-based investment products, structured products, CfDs and derivatives? Please describe any other costs or charges that should be included.

We generally agree with the ESAs' approach.

18: Do you have any views on how implicit costs, for instance costs embedded within the price of a structured product, might be best estimated or calculated?

While we have no concrete views on how to display implicit costs for structured products, we underline that their presentation is of major importance in comparing different types of PRIIPs. Certain types of PRIIPs should not appear cheaper than others simply because their costs are implicit (e.g. structuring costs for a structured product) as compared to costs that can be clearly disclosed to the retail investor (e.g. transaction costs for funds on an ex-post basis).

19: Do you agree with the costs and charges to be disclosed to investors as listed in table 12? If not please state your reasons, including describing any other cost or charges that should be included and the method of calculation.

Generally speaking, our primary concern is focused on providing information that is in an understandable and aggregated form for a retail investor to arrive at an informed investment decision. Too many cost categories will be confusing for most retail investors. Furthermore, many of the categories included in this discussion can be fully ascertained only on an ex-post basis. While these ex-post costs will be reflected in the estimates, this has to be made clearly understandable to the retail investors.

In terms of the costs categories related to PRIIPs, we provide more specific feedback on each identified cost category:

Portfolio Management Techniques (PMT)
The cost of PMT are part of the transaction costs and are only known ex-post. See answer to Q17.

Dividends
Dividends are a cost to the investor only if they are withheld from the investor (and therefore indirectly form part of the manufacturer's fees). In the case of funds, where dividends are credited to the fund portfolio or distributed to investors, they should be considered as a source of income.

Look-through costs (fund-of-funds)
We believe that the UCITS standards for calculation of the ongoing charges in case of target fund investments should be taken into consideration, but a greater degree of consistency should be ensured. In the case of UCITS, the definition of a "substantial proportion" of investments, which triggers the duty to account for the target funds' costs, has not yet been harmonised at EU level.

Bid-Ask spread and Market impact costs
In terms of the ESAs' analysis on bid-ask spreads and market impact costs, we do not agree with the proposal, as it is inconsistent with ESMA's Technical Advice to the Commission on MiFID II and MiFIR, which notes that, in line with MiFID II[5], "transactions costs should be understood as costs incurred in order to acquire and dispose of investments. ESMA acknowledges that in some markets (bond market, derivatives market, foreign exchange market) these transactions costs are embedded in the bid-ask spread" [p. 118; para. 24] and that "the underlying market risk should be understood narrowly and relates only to movements in the value of capital invested caused directly by movements in the value of underlying assets" [p. 119; para. 25]. These statements thus imply that the bid-ask spread covers market impact and may include transaction costs (i.e. the bid-ask spread is not per se transaction costs). As the PRIIPs KID will be relied upon by MiFID distributors to provide appropriate information on product costs, the understanding of the relevant cost elements should be congruent under both EU frameworks.

On a more general level when discussing cost disclosures, we fully understand that transparency of transaction costs raises significant practical problems, as we have highlighted above (e.g. for bonds traded with bid and ask spreads, it is not possible to determine which part of the spread is attributable to the broker and which part can be attributed to a market momentum at the time of trading). Moreover, it should be borne in mind that in some transactions such as OTC derivative contracts, transaction costs are simply not identifiable as they are intrinsically embedded in the instrument price. Since the PRIIP KID Regulation will cover only those derivatives that can be bought direct by retail investors, we see no prospects for quantification of costs in relation to B2B derivative transactions.

However, should the ESAs decide to further promote disclosure of transaction costs, we deem it of utmost importance that such disclosure pertains also to transactions conducted for the account of structured products and transactions concluded by insurance undertakings for the purpose of managing their capital investments. Only such broad understanding of transaction costs will ensure a

[5] Article 24(4) second subparagraph of Directive 2014/65/EU (MiFID II Level 1).

level playing field among all PRIIPs and avoid unbalanced cost disclosures to the detriment of off-balance sheet products such as investment funds.

20: Do you agree that a RIY or similar calculation method might be used for preparing 'total aggregate cost' figures?

Yes, we agree with the ESAs' proposition to use reduction-in-yield (RIY) calculation methods to show the possible return of a PRIIP net of costs. In order to make these calculations comparable, it is necessary that the performance scenarios are standardised in such a way that that are based on common assumptions (e.g. growth rates, turnover/transaction volumes, FX rates, holding periods, etc.), through specific calculation methodologies and base assumptions provided by the ESAs. These will need to be mandatory across all markets and products if a level playing field is to be achieved and a consumer is to be enabled to make direct comparisons.

21: Are you aware of any other calculation methodologies for costs that should be considered by the ESAs?

Presenting the total aggregate costs as a percentage avoids the need to make growth, and other, assumptions that may prove to be misleading to consumers.

22: Do you agree that implicit or explicit growth rates should be assumed for the purpose of estimating 'total aggregate costs'? How might these be set, and should these assumptions be adjusted so as to be consistent with information included on the performance scenarios?

As mentioned in our previous answers, it will be paramount that these assumptions are provided by the ESAs to arrive at information that is consistent for comparing PRIIPs. Growth rates assumed for the purpose of estimating "total aggregate costs" should thus correspond with the costs of the PRIIPs. This would enable the retail investor to judge the growth rate necessary to cover the total aggregated costs of the investment product. For further information on the cost disclosure, please also consider our answer to Q26.

23: How do you think implicit portfolio transaction costs should be taken into account, bearing in mind also possible methods for assessing implicit costs for structured products?

We have some concerns about the use of estimated costs, especially in contrast to costs that are already known from the outset. We need to avoid a situation where a retail investor comes to the conclusion that all elements of the aggregated costs are known and subsequently believes that a certain PRIIP has been mis-sold to him/her because the ex-post cost assessment differs (as is likely to be the case with e.g. transaction costs).

If portfolio transaction costs[6] are taken into account, we deem it of utmost importance that such disclosure pertains also to transactions conducted for the account of structured products and transactions concluded by insurance undertakings for the purpose of managing their capital investments. Only such broad understanding of transaction costs will ensure a level playing field among all PRIIPs and avoid unbalanced cost disclosures to the detriment of off-balance sheet products such as investment funds.

To the extent possible, historical data should be used. As the disclosure of portfolio transaction costs is required in the annual report and accounts of UCITS, these ex-post figures should form the basis for any disclosure in the KID.

For disclosure of transaction costs, specific guidelines – along the lines of our above comments – would be needed to ensure consistency. However, it is our opinion that individual disclosure of certain fees, such as portfolio transaction costs, may not be meaningful to the retail consumer.

24: Do you have any views on possible assumptions that should be made, and how these might be calibrated or set?

Parameters and assumptions should be standardised across all products using the PRIIPs KID in order to create a level playing field.

Regarding ex-ante vs ex-post basis of calculation, please refer to our reply to Q16.

The holding period would need to be standardised, requiring the ESAs to establish such standardisation, in order to facilitate comparability across product ranges and to avoid that discretion is exercised in this regard by manufacturers. The holding period should be in line with the time frame for performance scenarios (see our reply to Q8).

The rates of return assumed for the purpose of cost calculation should match with the return rates underpinning the performance scenarios in the risk and reward section if probabilistic modelling is used. Since we prefer scenarios including probabilistic modelling and thus illustrating performance outcomes that can reasonably be expected for a PRIIP, it should be consequent to refer to the same scenarios for the purpose of cost disclosure in order to show probable results also in terms of costs. We believe that this approach would provide added value to investors in contrast to standardised growth rates not linked to a particular product.

[6] Transaction costs are responsible for a relatively small portion in the total costs of a fund. For example, the average transaction costs for equities of a European equity portfolio generally account for around 10bps. Transaction costs of other financial instruments (derivatives, bonds, forex, etc.) are included in their price and are therefore directly reflected into the performances.

25: What do you think are the key challenges in standardising the format of cost information across different PRIIPs, e.g. funds, derivatives, life insurance contracts?

The type of product limits the comparability – the same is true for the costs as it varies depending on the product type. It is important to keep the disclosure simple and connected to the product specification.

Additionally, the greatest emphasis has to be put on achieving the overarching aim of providing a PRIIP's ex-ante cost disclosure, as is required by MiFID II (and eventually IMD II). Without the PRIIPs KID satisfying these requirements, the KID will simply become another disclosure document that will have to be provided to retail investors alongside additional MiFID II disclosures on product costs. Only if the MiFID II requirements are deemed fulfilled by the PRIIPs KID will retail investors be able to receive "one-stop" product cost disclosure that reduces instead of increases the documentation received when buying financial products.

26: Do you have a marked preference or any objection for any of the presentational examples? If so, why? Please provide any alternative examples which you believe could be useful.

Consumer testing will provide important input to this important question. However, we recommend that certain of the options described in the Discussion Paper be excluded from that testing as the information presented should neither (i) be too complicated, nor (ii) include too many figures, nor (iii) not be visually understandable.

As a general rule, the presentation of costs should be structured according to the UCITS KIID rules, as it is a well-tested presentation, is familiar to investors and ensures that relevant information is provided in a non-discriminatory and understandable way. Importantly, the presentation should avoid miscomprehensions by investors and should not allow manufacturers to create an artificial impression of cheap products. The presentation should be based, to the extent possible, on historical data.

There should be a strong link between the information provided in the costs section and by the performance scenarios in their respective section of the KID. In particular, the performance scenarios should be net of costs, which will provide an immediate and visual expression of the effect of costs on the product's return. (See answers to questions 7, 10, 13, 15 and 20)

Specifically and in line with our above comments, we thus have a preference that the cost section takes the form of option 5 on page 68 of the discussion paper. This option covers all the requirements in the Regulation since it shows summary cost indicators as well as aggregate cost figures. However, it has the disadvantage of being focused on one specific time horizon (a holding period of 20 years, as provided in the example, is much longer than the average holding period of PRIIPs). Moreover, costs of many PRIIPs do not apply in a linear manner (for some PRIIPs, more of the costs are charged in the first few years of the investment meaning that such products have liquidation values that are lower than the invested amount in the first few year). This information is necessary for investors and should be clearly visible in the KID. Therefore, we recommend presenting option 5 by reference to different timeframes (as foreseen in option 6), as follows:

This information and table show the effect of costs for someone with EUR 1.000[1] to invest, if the return in each year exactly covers the costs.

Costs:
- *Upfront costs: 1,00%*
- *Ongoing costs (p.a.): 1,50%*
- *Exit costs: 2,00%*
- *Incidental costs (e.g. performance fees[2], transaction costs[3])*

Number of years invested	*Total accumulated costs*	*Annual impact of costs on investment*
1	€45	4,5%
3	€75	2,5%
5	€105	2,1%
10	€180	1,8%
End of product life [if applicable]	€330	1,65%

[1] See our answer to question 9 regarding the need to avoid requiring a Euro amount for non-Euro zone Member States.
[2] This fee is charged only if the performance reaches a certain level and is therefore not known in advance.
[3] Transaction costs will vary from period to period and are not known in advance.

The other presented options are much less preferable. In particular, options 1 to 3 appear over simplified and do not present information in a discriminatory manner, while option 4 is too complex. No clear holding period is shown in option 7 and this makes it difficult to interpret. Option 8 suggests certain theoretical likelihoods for the scenarios and, therefore, is likely to be misinterpreted by the investor. Given performance is already shown net of costs and the space is limited, options 9 and 10 would take up too much valuable space. Finally, the likelihood shown in option 9 might be misinterpreted by investors and gives room for overly positive presentations by manufacturers.

As stated already at the outset, even if consumer testing reveals a preference for the simplest representation of costs, the ESAs should promote efforts to develop financially aware customers. Last but not least, even while the KID is aimed at retail investors, their advisers also need sufficient information to correctly preselect certain products for their clients and therefore they need to interpret the PRIIPs KID and understand how the products will behave, including the effect of costs.

27: In terms of a possible breakdown of costs, are you aware of cost structures for which a split between entry or exit costs, ongoing costs, and costs only paid in specific situations or under specific conditions, would not work?

For a fund, these costs can be broken down on an ex-post basis, but the required ex-ante disclosures are based on estimations and are much less reliable. In order to ensure consistency with the UCITS KIID, we would also add "portfolio transaction costs" as a cost category (while keeping in mind that the UCITS KIID currently only provides this as a narrative disclosure).

28: How do you think contingent costs should be addressed when showing total aggregated costs?

Contingent costs would add no value by being included in the aggregate costs. The aggregation is already based on an assumed growth rate, and it is not appropriate to make further assumptions about whether this growth rate is in excess of the benchmark or hurdle by reference to which outperformance is determined. Moreover, embedding a performance fee in an aggregated cost figure is opaque and potentially misleading, as they are based on historical performances and fees.

If the ESAs, despite our strong concerns, would still consider requiring contingent costs, these should be, to the extent possible, based on historical data. Then the actual contingent costs can be addressed when showing total aggregated costs. Where historical data cannot be used it must at least be ensured that the contingent costs correspond to the performance scenarios shown in the performance section of the KIID.

29: How do you think should cumulative costs be shown?

We agree with showing cumulative costs using RIY over standard time horizons.

30: Do you have any views on the identity information that should be included?

In our view, the following information should be included:

- Where it exists, a product identification code (e.g. ISIN);
- Name and website of the PRIIP manufacturer (providing the address etc. of the product manufacturer would cater for a small and diminishing minority of retail investors who may not have access to the internet);
- Name of the competent authority.

31: Do you consider that the criteria set out in recital 18 are sufficiently clear, or would you see some merit in ESAs clarifying them further?

We consider the current Recital 18 to be too widely drawn and therefore generally welcome the ESAs' initial suggestions on how to better capture what PRIIPs should be excluded from the comprehension alert and ask for further clarifications along the lines of our comments below.

Secondly, we strongly welcome reference to Article 50 of the UCITS Directive as a basis for what could or could not be included in the comprehension alert. While this should serve as a basis for further discussion, we would also stress that there are other types of investments that are typically invested in by retail investors, such as real estate and precious metals, and that the comprehension alert should also exclude these investment types.

32: Do you agree that principles on how a PRIIP might be assigned a 'type' will be needed, and do you have views on how these might be set?

A PRIIP should be assigned a 'type' based on the underlying regulatory types. These are (i) UCITS or AIF (open-ended or closed-ended), (ii) insurances (unit-linked or with profit), (iii) structured bonds, (iv) structured deposits and (v) derivatives (as defined on page 13 of the Discussion Paper).

Further, while we see no merit in using the classification of AIFs related to the reporting requirements under AIFMD as many are not available to retail investors, we see added value in informing retail investors if an AIF is particularly designed for retail investor according to EU Member States' laws (e.g. "Fonds d'investissement à vocation générale" in France, "Specialfonds" in Sweden, "Non-UCITS Retail Schemes" in UK). Moreover, the underlying assets of the PRIIP are covered in the risk section of the KID.

33: Are you aware of classifications other than by legal type that you think should be considered?

No. We believe that only the regulatory types (see Q32) should be considered with regards to retail investors.

34: Do you agree that general principles and as necessary prescribed statements might be needed for completing this section of the KID?

Generally, we agree that general principles and, as necessary, prescribed statements might be needed for completing this section of the KID. The objectives and investment policy section of CESR's template for the UCITS KIID is a good starting point.

Furthermore, we note that the phrase "where applicable" in Article 24(3)(b)(ii) of the PRIIP KID Regulation requires such description only for those investment products that are promoted as so called Responsible Investment products. Should the ESAs consider common principles or further guidance for those products, it is in our view crucial to use and refer to existing standards on transparency of the investment processes and selection methods, and not to impose rules that which would affect the choice of content. If the ESAs consider such common principles, we believe that these should be based on existing standards (e.g. objective of investment, recommended time horizon, investments universe, etc.) and could be based on the "objectives and investment policy" section of the UCITS KIID.

35: Are you aware of other measures that might be taken to improve the quality of the section from the perspective of the retail investor?

A possible measure could be to highlight important indirect exposures by listing instruments that create higher exposure than the combined overall holdings. The use of leverage, which would need to be measured by a specific rate/indicator, could be highlighted somewhere in the sections of the KID.

Moreover, the description of any sort of measures (such as portfolio management techniques) must be understandable for the retail investor. In this regard, we encourage the use of plain language to communicate clearly to the retail investor. But it can be difficult for PRIIPs to avoid technical jargon. The use of a glossary or standardised sentences developed by the ESAs might assist understanding of some terms.

Unfortunately, the PRIIP KID Regulation does not refer to the known constituents of ESG: Environmental, Social and Governance. The G for Governance is essential to ESG strategy, because if a shareholder has no relevant rights vis-à-vis the management of a corporation, it cannot effectively engage in a dialogue with the management and hence may not be in the position to improve social or environmental issues the corporation might have. We believe that it should be possible for PRIIP manufactures to include in the description also governance criteria, where applicable. This would improve the quality of the information for the retail investor, who would then be able to evaluate the product with respect to the complete criteria.

36: Do you have views on the information PRIIPs manufacturers should provide on consumer types?

Generally speaking, the problem with identifying a consumer type at which any PRIIP is targeted is that it will have to remain generic and high level because it cannot factor in what other investments the consumer already owns, nor other circumstances particular to the investor. A PRIIP with a focussed investment objective (e.g. Asian emerging markets) could be suitable for any investor as long as it was part of a diversified portfolio which, overall, matched the investor's risk appetite. We therefore insist the description of consumer type must stay sufficiently high level for product manufacturers to be consistent with the requirement of the "identified target market" in MiFID II and not to preclude a necessary suitability and appropriateness test being conducted during the investment advice process.

37: What is the key information that needs to be given to the retail investor on insurance benefits, and how should this be presented?

No comment.

38: Are you aware of PRIIPs where the term may not be readily described, or where there are other issues?

Standard sentences should be specified for fixed length or open-ended products. If necessary, the conditions for an anticipated term could be specified or it could be mentioned only that an anticipated term is possible (e.g. open-ended funds that can become closed-ended).

We would, however, like to point out that besides a fixed length or open-ended term, some products have a fixed term that might be extended. This applies for example to ELTIFs, the manager is required to define a term but may also define conditions in which he may extend the term[7]. Any rules regarding description of a term should take this into account.

39: Are you aware of specific challenges arising for specific PRIIPs in completing this section?

We are not aware of specific challenges in this respect. However, there are PRIIPs where a bankruptcy of the manufacturer is irrelevant because the investment is insolvency remote (e.g. funds with separate depositary arrangements are effectively ring-fenced from the financial position of the PRIIP manufacturer, so the question of whether the PRIIP manufacturer is able to pay out is not relevant).

If the existence of a compensation scheme is given, then for funds, whose investment are insolvency remote, must be able to highlight the role of the depositary.

For other types of "on-balance" PRIIPs (i.e. structured deposits, structured bonds or - insurance-based products) where a chief risk for the retail investor is presented in the ability of the PRIIP manufacturer to fulfil his obligations, we would caution that compensation schemes, put in place to compensate investors against such a detrimental fallout, are portrayed in too favourable conditions, keeping in mind that funds do not need these measures, as the PRIIP's investments are insolvency-remote from the PRIIPs manufacturer. Moreover, the KIDs for AIFs (as for the UCITS KIIDs) should mention the depositary and its role.

[7] See Regulation on European Long-term Investment Funds.

40: Are you aware of specific challenges arising for specific PRIIPs in completing this section?

As with question 36, the answer to the first part of this question ("How long should I hold it?") will have to be generic and high level in nature because it cannot factor in circumstances particular to the investor. This could include circumstances, already know at the time of the investment, such as severe detrimental effects because of an early exist.

41: Are you aware of specific challenges arising for specific PRIIPs in completing this section?

In itself the information presented in this section needs to be generic in nature, otherwise manufacturers might need to create different KIDs for the same PRIIP in order to address different distribution channels and jurisdictions, which would be contrary to the concept of a single KID per PRIIP. This could be accomplished by including a reference to where further information (i.e. website) may be found. In general, the information requirements within this section should be coherent with the ESAs guidelines' for complaints-handling, where covered firms are required to publish details of their complaints-handling process in an easily accessible manner.

42: Do you agree that this section should link to a webpage of the manufacturer?

Generally, we agree with the publication of additional information on the manufacturer's website.

43: Do you agree with the assessment of when PRIIPs might be concerned by article 6(3)?

We consider that a generic description of the underlying investment options is not necessary for the investment in funds. However, if necessary, a generic description of the underlying investment options should be provided via specific KIDs for each of the offered options.

44: In your market, taking into account the list of criteria in the above section, what products would be concerned by article 6(2a)? What market share do these represent?

No comment.

45: Please provide sufficient information about these products to illustrate why they would be concerned?

No comment.

46: Do you have views on how you think the KID should be adapted for article 6(3) products, taking into account the options outlined by the ESAs?

We would not recommend using examples or representative investment options for illustrating possible risks and rewards as well as costs of an investment. If a product offers investors a free choice between different investment strategies, stipulation of a representative investment is not possible and could mislead investors into thinking that the presented figures bear some relevance in terms of their final choice. Instead, the use of ranges for the risk/reward information and the cost data could be envisaged.

47: How do you consider that the product manufacturer should meet the requirements to describe and detail the investment options available?

Description of the different investment options should at least correspond to the information required in the section "What is this product" under Article 8(3)(c) of the Level 1 Regulation for individual PRIIPs. Hence, the main features of the relevant investment options should be explained in particular to depict potential differences in the investment strategies and the relevant consumer types. This depiction should be accompanied by a clear reference to other pre-contractual information on the underlying investment options.

48: Are you aware of further challenges that should be taken into account?

In the case of products offering many options, it could be difficult for investors to relate the information obtained on the product wrapper to the information on specific investment options. This pertains in particular to the overall risk profile and overall costs as well as performance scenarios presented net of costs. Whereas costs incurring at the level of the product could possibly be added to the costs of the underlying investment option, obtaining an aggregated picture of risks could be more complex, especially if the product wrapper provides for some elements of insurance/capital protection not present in the chosen investment.

49: Do you agree with the measures outlined for periodic review, revision and republication of the KID where 'material' changes are found?

The UCITS KII Regulation should be used as a guide for developing these measures. It is important to remember that the KID is intended as pre-contractual information and any attempt to extend this to inform existing investors of any changes (other than through a broadcast or passive model) would create serious complications (including overlapping existing periodic disclosure requirements) and should thus be avoided at all costs. Any requirement for the PRIIP manufacturer to inform the investor of changes beyond a publication of the revised KID, e.g. on a website, would lead to significant practical issues and a regulatory overlap.

Further clarifications on the meaning of material changes would be appreciated in this regard, as these will trigger the need for a revision of the KID.

One practical issue worth mentioning from our experiences in revising the UCITS KIID is that of a UCITS moving from one SRRI risk category to another (e.g. from "3" to "4"). Currently there is a 13-week observation period that forms the basis of the SRRI calculation. This observation period is not in line with having to provide a KID within 35 business days. These practical concerns need to be taken into consideration.

50: Where a PRIIP is being sold or traded on a secondary market, do you foresee particular challenges in keeping the KID up-to-date?

We agree with the ESAs that the UCITS KIID should be taken as a starting point for questions on periodic review, revision and republication. One issue that requires clarification at this stage is connected to the issuer's responsibility to keep the KID up-to-date. Furthermore, it is unclear to us whether it is a requirement that the producer is active in the secondary market, either directly or through distributors with whom the producer has an agreement, or if it is enough that the PRIIP can be traded in the secondary market to trigger this requirement.

For open-ended funds, we do not see any particular challenges. For closed-ended funds, however, it would be very burdensome to keep a KID up-to-date where these funds are actively traded on a secondary market (and if such trading is based on the decision of a third party and not the manufacturer). Closed-ended funds have signing periods during which the product is offered. If a product is no longer sold by the PRIIP manufacturer, there should be no obligation to keep the KID up-to-date.

51: Where a PRIIP is offering a wide range of investment options, do you foresee any particular challenges in keeping the KID up-to-date?

The UCITS KII regulation should be the starting point and should be adapted to cover PRIIP potential specificities. In particular, the RTS should be specific as to what is to be considered as a material change.

52: Are there circumstances where an active communication model should be provided?

Like in cases of the UCITS KIID, the publication of the revised KID on the manufacturer's website ("passive communication") should be sufficient. There should be no duty actively to communicate modifications of a PRIIP KID to the existing investors.

53: Do you agree that Recital 83 of the MiFID II might be used as a model for technical standards on the timing of the delivery of the KID?

While we agree that the technical standards should address the issue of retail investors being given the time they need to consider the KID before making any decision, it is an equally important investor protection concern that they should not be prevented from investing at the point they want to because of constraints imposed by overly prescriptive regulation.

We would consider these technical standards to be in line with the Distance Marketing Directive and MiFID II.

54: Are you aware of any other criteria or details that might be taken into account?

No comment.

55: Do you think that the ESAs should aim to develop one or more overall templates for the KID?

The KIID template published by CESR (CESR/10-1321) has helped consumers by making sure all KIIDs are similar in format and it has helped firms by clearly indicating how to construct a compliant document.

A similar approach for the KID would be most welcome that should take into account the experiences of the past four years since the publication of these CESR guidelines. Otherwise there is a high risk of having to comply with multiple templates for products distributed on a cross border basis, which reduces competition by increasing barriers to entry while being a source of confusion for both investors and manufacturers.

56: Do you think the KID should be adjusted to reflect the impact of regular payment options (on costs, performance, risk) where these are offered? If so, how?

As the KID is designed to be a generic disclosure document, multiple versions reflecting different payment options should be avoided, as such multiplication will just make it harder for the retail investor to locate the right version. One solution would be to produce the KID for any PRIIP on the basis of single payment in/single payment out, unless that payment option is not available in the specific PRIIP concerned, in which case the KID should reflect the reality of the payment profile.

57: Are there other cost or benefit drivers that you are aware of that have not been mentioned? Please consider both one-off and ongoing costs.

No comment.

58: Do you have any evidence on the specific costs or benefits that might be linked to the options already explored earlier in this Discussion Paper? Please provide specific information or references broken down by the specific options on which you wish to comment.

No comment.

59: Are you aware of situations in which costs might be disproportionate for particular options, for instance borne by a specific group of manufacturers to a far greater degree in terms relative to the turnover of that group of manufacturers, compared to other manufacturers?

No comment.

Brussels, 16 February 2015

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