

EFAMA'S STATEMENT ON THE REVISED PRIIP KID OF APRIL 2020

- 23 April 2020 -



While awaiting the ESAs' final report on technical changes to the PRIIP Key Information Document (KID), **EFAMA would emphasise that the current PRIIP KIDs are flawed and are providing retail investors with misleading information. A review addressing these flaws is essential.**

The current COVID-19 crisis is resulting in unprecedented economic uncertainty for everyone. Our sector will play its part in helping on the long road to economic recovery. To achieve this, a PRIIP KID that provides retail investors with the right information has become even more important. How else can we expect retail investors to make informed investment decisions in times of economic uncertainty and participate in the post-COVID recovery?

Unfortunately, the European Commission has still not completed its long overdue review of the Level 1 PRIIPs framework (due by the end of 2019) and, to our knowledge, it will not be completed in the foreseeable future. In the meantime, the Commission opted for only technical changes (i.e. the Level 2 framework) with the help of the European Supervisory Authorities (ESAs). This constrained approach carries great risks to prolonging previous mistakes. **If pragmatism prevails, we are still confident that most issues can be successfully addressed through Level 2 changes.**

If the ESAs' final report, however, concludes that necessary improvements are not possible within the current Level 2 constraints, then a targeted Level 1 review becomes even more urgent. Time is running short: a review would need to be completed and implemented before the end of 2021 to avoid continued misinformation to retail investors and damaging the UCITS brand by extending the currently flawed PRIIP KID. In the interests of investors, we hope that the Commission's decisive actions in the fight against the current crisis will extend to providing retail investors with the right information they need going forward.

Comparability at any cost is not the right solution

Taking a step back, the fundamental problem stems from the PRIIP KID's inherent conflict to provide clear, fair and not misleading information and comparability between widely different investment products. Over the last couple of years, the focus has been solely on the latter. **The pursuit of comparability has come at the cost of misleading information, which has in turn adversely impacted meaningful comparisons.**

The Level 2 review must, therefore, rather focus on what information is relevant to retail investors for each type of PRIIP. Such flexibility is fundamental because each type of PRIIP provides a different value proposition and thus requires slightly different disclosures on costs and performance. A loss in theoretical comparability will be more than offset by better explaining the fundamentals for each PRIIP and providing investors with

more meaningful information. Standardising the disclosures for similar types of PRIIPs will maintain broad comparability. We believe that this is in line with the PRIIP Regulation's intentions and will in the process provide better understanding of the products.

Given the current discussions among regulators and lawmakers, EFAMA wishes to reiterate some essential observations on the inclusion of past performance and meaningful performance scenarios. On cost disclosures (and their much needed alignment with MiFID II), please consider our [recent response](#) to the ESAs' consultation.

Inclusion of past performance is paramount

Investors need to know how a product has performed in the past. We appreciate the concerns of some MEPs and the Commission that retail investors may use past performance as an indicator of what they can expect in the future. However, consumer testing has repeatedly shown that consumers understand that past performance cannot be used to guess or predict future returns. This was proven in the original UCITS KIID testing¹ and has since been reaffirmed by the EC's [PRIIPs consumer testing](#),² which concluded that consumers seem to understand that *"future performance cannot be accurately predicted by information on the past"*.

In addition, past performance is, at least, based on actual (i.e. historical) facts and is presented in a standardised way that shows how the fund is run and allows for easy comparisons. It also allows investors to appreciate that a fund's value will fluctuate. The current PRIIP KID does not clearly evidence this point.

This is why we strongly support the use of past performance information, where it is available and representative, and no matter what decision is taken about the future scenarios.

What are "appropriate performance scenarios"?

Over the last couple of years, there have been endless debates about what "appropriate performance scenarios" (Article 8(3)(d)(iii) of the PRIIPs Regulation) are, revealing the complexity of this issue. Simply put, there is no easy solution.

In the past, some MEPs and the Commission have interpreted "performance scenario" as meaning "future performance scenario". This is why the current PRIIP KID uses past performance data and applies highly complex mathematical formulas to provide four such different scenarios. However, no matter what formula is used, it is impossible to predict or estimate the future. Besides, any method chosen is based on past performance data, and therefore in some sense reflects the past performance of the product. It thus inherently links past and future performance, which some policymakers say they wish to avoid.

We challenge these views, as **the PRIIPs Level 1 Regulation does not state that the scenarios must be future-looking. Their ultimate purpose is to allow retail investors to better understand how a certain product will function given certain market conditions.** The same outcome can be achieved by providing performance scenarios based on historical observations. These would show retail investors how the investment would have performed over the recommended holding period if it had been purchased in the past.

We are aware that this proposal may work only for funds and other products with linear performance for which past performance data can be considered representative. If such scenarios do not provide meaningful results for other types of PRIIPs then, in line with our previous comments, different – more suitable – performance scenarios must be chosen.

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¹ IFF Research and YouGov, "UCITS disclosure testing research report", prepared for the European Commission, June 2009

² European Commission, "Consumer testing services - Retail investors' preferred option regarding performance scenarios and past performance information within the Key Information Document under the PRIIPs framework", FISMA/2019/016/C, Final Report, February 2020 (written by DevStat)