	Comments Template for Joint Consultation Paper concerning amendments to the PRIIPs KID (JC 2018 60)	**Deadline** **6 December 2018** **23:55 CET**
Name of Company:	The Asset Management Group of the Securities Industry and Financial Markets Association ("AMG")	
Disclosure of comments:	Please indicate if your comments should be treated as confidential:	Public
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Reference	**Comment**	
General Comments	The Asset Management Group of the Securities Industry and Financial Markets Association ("**AMG**") appreciates the opportunity to provide feedback on the European Supervisory Authorities' ("**ESAs**") consultation paper concerning amendments to the PRIIPs KID. The AMG brings the asset management community together to provide views on U.S., European and global policy and to create industry best practices. AMG members are US, UK and multinational asset management firms with combined global assets under management exceeding $39 trillion. The clients of AMG member firms include, among	

others, tens of millions of individual investors, registered investment companies, endowments, public and private pension funds, UCITS and private funds such as hedge funds and private equity funds.[1]

Application of the regime to UCITS and relevant non-UCITS funds

UCITS funds and non-UCITS retail funds that are required to prepare KIIDs under local rules, are currently exempt from the requirement to prepare a PRIIPs KID until 31 December 2019. We note that the European Parliament's Economic and Monetary Affairs Committee (ECON) has voted on a resolution to extend the PRIIPs exemption for UCITS and relevant non-UCITS funds by 2 years to 31 December 2021.

We strongly support and welcome this extension, given the misleading performance outcomes and costs disclosures the PRIIPs requirements are currently generating in the non-UCITS space. We consider this to be the most favourable outcome from an investor disclosure perspective (who are also very familiar and comfortable with the current UCITS KIIDs) noting also the much wider retail base of these funds. We also think this would be the best outcome for the industry as it would avoid UCITS / in-scope non-UCITS retail funds expending costs and resources to implement the PRIIPs KID regime twice (i.e. when the exemption expires and subsequently when the revisions to the overall PRIIPs regime are effected).

Expanding the scope of the ESA's review to fix broader deficiencies

In the consultation paper the ESAs have noted that they wish to do a targeted review of the PRIIPs regulation over an expedited timeframe, to ensure that their proposed changes become effective before the PRIIPs regime is extended to UCITS and relevant non-UCITS funds.

[1] For more information, visit http://www.sifma.org/amg.

However, following news of the extension of the UCITS exemption (which occurred after the ESAs published their consultation paper) we strongly urge the ESAs to expand the focus of their targeted review to issues associated with the regime more broadly (especially in relation to costs disclosure – on which please see our comments below) and to also take the time to work with the industry to come up with more effective alternatives to the PRIIPs performance scenarios (which in their current form should be dropped from the PRIIPs KID altogether because they give a misleading and distorted impression to investors of future fund performance – and we don't think the ESA's proposed changes in the consultation paper overcome that issue).

Making piecemeal reforms to the PRIIPs KID in stages, will be very unhelpful and costly for the industry, as they will have to make multiple revisions to their existing KIDs and repeatedly amend their data capture / systems build - resulting in undue and unnecessary repeat implementation costs. This will also be very confusing and annoying from the perspective of retail investors, as they will end up receiving multiple versions of KIDs for their investments in the same product.

Transaction costs

We note that the ESAs have not invited comments on the PRIIPs costs methodology in the consultation paper, and are working to an expedited timeframe because of which they wish to "*limit the proposed amendments to the most pressing issues and those that facilitate the possible use of the KID by UCITS and relevant non-UCITS funds*".

Given the significant issues the industry is facing with the PRIIPs transaction costs methodology and the misleading figures it generates for investors, we consider this to be a very pressing issue that the ESAs should equally prioritise (especially before the regime is extended to UCITS and relevant non-UCITS funds). We therefore urge the ESAs to urgently consult on and introduce changes to the PRIIPs costs methodology as part of their review. This will not only be in the best interests of investors and the market, but will also help better support the policy objectives of the PRIIPs regulation (i.e. to enhance disclosure to retail investors prior to their investment in a PRIIP, rather than to generate disclosures that provide a misleading impression of the PRIIP's cost profile). We have set out below our feedback on the PRIIPs costs disclosure methodology accordingly:

1.1 In short, the PRIIPs arrival price methodology for calculating transaction costs does not work (particularly for non-equity products) and is resulting in misleading costs figures being reported to investors. We recommend the adoption of alternative spread based methodologies instead, which in our view will be a more representative measure of transaction costs.

1.2 The AMG and its members are supportive of the enhanced costs disclosure that the PRIIPs regulation aims to provide investors. However, in our members' experience, the arrival price methodology (also referred to as the "slippage" methodology) is not an effective capture of implicit costs as it consistently generates misleading figures that distort the overall cost profile disclosed in the KID.

1.3 Unlike explicit brokerage fees and product charges, we note that implicit transaction costs are difficult to quantify, as they are embedded within the bid-ask spread of certain financial instruments. The arrival price / slippage methodology attempts to capture these embedded costs, but goes further as it also looks to pick up the underlying market impact / risk associated with the trade (i.e. the opportunity cost of the trade potentially being executed at a better price from the moment it was sent into the market, compared to its realised execution price).

1.4 This introduces an element of randomness into the calculation, which in our view is not appropriate for a costs methodology that ultimately determines disclosure to retail investors. We also strongly disagree with any arguments that this randomness cancels itself out when slippage / arrival prices are calculated over many transactions. In our members' experience, the arrival price methodology often and consistently results in negative transaction costs figures (which would lead investors to believe that these costs are in fact gains rather than leakages their fund investment has incurred) or results in figures that in their view significantly misrepresent the fund's transaction costs. In the context of fixed income trading specifically, the issue is particularly acute as bonds are traded very infrequently compared to equities (e.g. once a week) and so there is not much scope for the randomness to cancel itself out.

1.5 Depending on factors such as market conditions and/or the manager's trading strategy, an arrival price based methodology will very easily distort the transaction costs associated with particular trades. By way of illustration, Manager A sends a limit order in the morning to rest until the price of Share X hits £50 and Manager B sends the same order into the market when the price hits £50 – the arrival price methodology will represent Manager A and Manager B's transaction costs very differently (as Manager A's order has been in the market for a much longer period) even though both Managers achieve the same costs outcome for their client.

1.6 Similarly, a manager with a VWAP strategy may be trading efficiently at prices close to VWAP throughout the day. However, when this trading activity is measured under the current PRIIPs rules, the arrival price methodology could suggest high slippage and transaction costs (because of when the order was sent to, or how long it rested in, the market), even though the manager has been trading very efficiently compared to VWAP.

1.7 The methodology also assumes that there is continuous liquidity in the market for all product types, when in fact this is not the case for most OTC trading. An order for fixed income securities sent to a broker at 11 am, may only be executed at 2 pm because that was the earliest point at which liquidity was available. There isn't therefore an opportunity cost or market impact associated with that trade - it would not have been executed at a different point or price from the moment it was sent into the market. Instead the transaction cost is represented within the bid-ask spread, which in our view is what the PRIIPs calculation should focus on for these products.

1.8 For the same reasons, outside of the liquid equities market, the data set required to perform arrival price calculations does not exist. As noted previously, most bonds are traded on an infrequent basis compared to equities and intra-day prices are rarely available. Although the PRIIPs methodology allows firms to use the opening price on the day of the transaction or the previous day's closing price, even that data does not exist for most bonds. Some service providers in the market do provide pricing sources and benchmarks for bonds – however these generally have significant gaps in the products / product types covered and don't generally provide continuous pricing. As such there is no reliable source of data in the market that would support or even justify adopting an arrival price methodology for fixed income instruments.

1.9 We note that managers across the industry have incurred great cost in attempting to source reliable data for the arrival price methodology (not just for fixed income products, but equities as well). However, given the issues with the methodology noted above and the misleading costs figures that are being

	generated, we don't think there has been any corresponding benefit to investors. **1.10** In our view, the arrival price methodology should be replaced by a spread methodology that focuses on the bid-ask spread to estimate the typical cost of a transaction (rather than approximating trading costs based on realised execution prices, which as noted above, incorporates market fluctuations and an element of randomness into the calculation). One solution could be for the arrival price to be defined as the mid-market price at the point of execution (including for child orders) rather than when the order is sent into the market. A better solution would be to adopt an enhanced spread methodology that estimates the typical cost of a transaction by reference to additional factors such as the product type, investment strategy and target holdings of the fund.	
Q1	**Do you agree that information on past performance should be included in the KID where it is available?** Yes – the move to including actual past performance data in the KID is a welcome one, as this data will provide a more meaningful guide of product performance (i.e. the fund's track record) and will better manage investor expectations regarding potential returns in our view. However, we strongly urge the ESAs to go one step further and have the performance scenarios dropped from the PRIIPs KID. In our members' experience, the PRIIPs performance scenarios give a misleading and distorted impression to investors of future fund performance, contrary to the general principle of European law that all communications must be fair, clear and not misleading: **1.1** Our key concern with the PRIIPs performance scenario methodology is that it	

	uses past performance data as the primary basis to predict future performance, and therefore ends up projecting the fund's historic 5 year performance (good or bad) into the performance forecasts set out in the KID. For example, due to high market returns over the last few years the PRIIPs performance scenarios for many funds currently predict a positive return / growth outcome for retail investors, even in the stressed and unfavourable performance scenarios – thereby promising the same historic market highs / returns for the future. **1.2** The methodology also adopts this approach notwithstanding the recommended holding period for the fund. While using performance data from the past 5 years that presents a very positive investment outlook could be justified for a 1 - 2 year forecast period, the outcomes start looking very misleading for PRIIPs products that are recommended or expected to be held for a must longer duration, as this positive performance and favourable market conditions are unlikely to subsist over 10 – 15 years. **1.3** We note that the ESAs are proposing to amend the narrative explanation accompanying the performance scenarios to state prominently that they are based on simulations and that future developments cannot be accurately predicted. Whilst we consider this to be an improvement, we don't think it will be sufficient to overcome the deficiencies of the methodology. In our view, the better approach would be to drop the performance scenarios altogether and limit disclosure to actual or simulated past performance only – which optically will better manage investor expectations by representing the fund's previous or simulated past track record as an indicator of performance, rather than presenting and promising historic performance as future performance / results (which the current methodology does). **1.4** Finally, we note that pursuant to the ESA's proposals, the actual past	

	performance information in the KID will be displayed with a warning that past performance is not a guide to future results. To then include performance scenarios in the KID below that section, which effectively project that past performance in the performance forecasts for the product, would be contradictory and very misleading from a retail investor perspective in our view. We therefore strongly urge the ESAs to drop the performance scenarios from the PRIIPs KIDs altogether.	
Q2	**Are there challenges to include past performance information for certain types of PRIIPs?** -	
Q3	**Do you agree that it is appropriate for this information on past performance to be based on the approach currently used in the KII? If not, please explain your reasons and if an alternative presentation would be more appropriate and for which types of PRIIPs?** -	
Q4	**Do you think that information on simulated past performance should be included in the KID where actual past performance is not available? If not, please explain your reasons.** Yes – additionally as noted above, we think the performance scenarios should be dropped from the KID and replaced with actual (where available) or simulated past performance data.	
Q5	**If you think that information on simulated past performance should be included in the KID, what approach do you think should be used to simulate**	

	the past performance, and how should this be presented in the KID? To avoid repeating the deficiencies of the current performance scenarios methodology, in our view, any simulated past performance methodology / requirements should be drafted to give sufficient flexibility to the industry (noting the broad range of products and asset classes covered by the PRIIPs regime) on the data inputs they can use to simulate past performance (e.g. data from a proxy fund or share class, values of underlying assets, appropriate benchmarks etc.). Particularly since the ESAs' expedited timeframe for this review does not allow the industry to feedback on the RTS that is written on the basis of comments received from this consultation.	
Q6	**Do you consider these amendments to the narrative explanations to be an improvement on the current performance scenario approach?** Yes – see our comments to Q2 above. Whilst we consider them to be an improvement, we don't think that the amended narrative explanations by themselves will fix the deficiencies associated with the current performance scenario methodology. The better approach would be to drop the performance scenarios from the KID altogether and limit disclosure to past performance data (actual or simulated) only, which would better guide and manage investor expectations.	
Q7	**Do you have any comments on the analysis set out in this Section of other possible options to improve the future performance scenarios?** As noted above, the performance scenarios should be deleted from the PRIIPs KID altogether, because they give a misleading and distorted impression to investors of future fund performance. We don't think the other approaches proposed by the ESAs in the consultation paper address these issues or offer a better alternative for the reasons set out below:	

	1.1 In our view, limiting the disclosure to two future performance scenarios (favourable and stress) or extending the historical period used to measure performance from 5 years to 10 years, would not overcome the intrinsic issues associated with the methodology noted in our response to Q2 above (i.e. by using past performance data as the primary basis to predict future performance the methodology ends up projecting the fund's historic 5 year performance, be it good or bad, into the performance forecasts set out in the KID, therefore promising the same results for the future – which is particularly misleading for products with a long recommended holding period). **1.2** Using a revised methodology that aims to generate a risk free rate of return seems promising, but we don't think will work in practice as a single prescriptive methodology is unlikely to be effective in excluding the impact of market risk for all PRIIPs product types. Additionally, as the ESAs noted in the consultation paper, such an approach is unlikely to capture all relevant factors that impact a product's performance. We think dropping performance scenarios from the KID altogether would be the preferable approach both from an industry and investor disclosure perspective. We would also request that the ESAs give the industry an opportunity (with sufficient time) to review and comment on any rules introducing this revised methodology as it may just end up replicating the issues with the current approach in a different form.	
Q8	**Do you have any views on how the presentation of the performance scenarios could otherwise be improved?** See comments above.	
Q9	**Do you agree with the proposals described in this section?** We think that the proposed amendments to the narratives accompanying the SRI and	

	the performance fee are helpful improvements.	
Q10	**Do you have any comments on the proposed approaches in relation to the analysis and proposals in this section?**	
Q11	**Do you have any comments on the preliminary assessment of costs of benefits?** Our only comment is that making piecemeal changes to the PRIIPs KID requirements in stages will be very unhelpful and costly for the industry (as they will have to make multiple revisions to their existing KIDs and repeatedly amend their data capture / systems build) and confusing for retail investors (who will end up receiving multiple versions of the KID for their investment in the same product). We understand that the ESAs are trying to do a targeted review of the PRIIPs regulation over an expedited timeframe, but we think the better approach would be to focus on all the key issues associated with the current rules (particularly in relation to costs disclosures) in one go to avoid undue implementation costs for the industry. As noted above, the European Parliament's Economic and Monetary Affairs Committee (ECON) has voted on a resolution to extend the PRIIPs exemption for UCITS and relevant non-UCITS funds by 2 years to 31 December 2021. We therefore urge the ESAs to expand the focus of their targeted review to address and fix issues with the PRIIPs regulation more broadly.	
Q12	**Are you able to provide information on the costs of including information on past performance for different types of PRIIPs?** **-**	
Q13	**Are there significant benefits or costs you are aware of that have not been addressed?** See comments under Q11 above.	

Template comments