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| 16 October 2019 |

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| Response form for the Joint Consultation Paper concerning amendments to the PRIIPs KID |
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| Date: 16 October 2019  ESMA 30-201-535 |

Responding to this paper

The European Supervisory Authorities (ESAs) welcome comments on this consultation paper setting out proposed amendments to Commission Delegated Regulation (EU) 2017/653 of 8 March 2017[[1]](#footnote-2) (hereinafter “PRIIPs Delegated Regulation”).

The consultation package includes:

• The consultation paper

• Template for comments

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

• contain a clear rationale; and

• describe any alternatives the ESAs should consider.

When describing alternative approaches the ESAs encourage stakeholders to consider how the approach would achieve the aims of Regulation (EU) No 1286/2014[[2]](#footnote-3) (hereinafter “PRIIPs Regulation”).

Instructions

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

1. Insert your responses to the questions in the Consultation Paper in the present response form.
2. Please do not remove tags of the type <ESA\_QUESTION\_PKID\_1>. Your response to each question has to be framed by the two tags corresponding to the question.
3. If you do not wish to respond to a given question, please do not delete it but simply leave the text “TYPE YOUR TEXT HERE” between the tags.
4. When you have drafted your response, name your response form according to the following convention: ESA\_PKID\_nameofrespondent\_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESA\_PKID\_ABCD\_RESPONSEFORM.
5. The consultation paper is available on the websites of the three ESAs and the Joint Committee. Comments on this consultation paper can be sent using the response form, via the [ESMA website](https://www.esma.europa.eu/press-news/consultations) under the heading ‘Your input - Consultations’ by 13 January 2020.
6. Contributions not provided in the template for comments, or after the deadline will not be processed.

Publication of responses

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

Data protection

The protection of individuals with regard to the processing of personal data by the ESAs is based on Regulation (EU) 2018/1725[[3]](#footnote-4). Further information on data protection can be found under the [Legal notice](http://www.eba.europa.eu/legal-notice) section of the EBA website and under the [Legal notice](https://eiopa.europa.eu/Pages/Links/Legal-notice.aspx) section of the EIOPA website and under the [Legal notice](https://www.esma.europa.eu/legal-notice) section of the ESMA website.

# General information about respondent

|  |  |
| --- | --- |
| Name of the company / organisation | German Association of Actuaries (DAV) |
| Activity | Insurance and Pension |
| Are you representing an association? |  |
| Country/Region | Germany |

# Introduction

Please make your introductory comments below, if any:

<ESA\_COMMENT\_PKID\_1>

The German Association of Actuaries (DAV) welcomes the opportunity to respond to the ESAs’ Joint Consultation Paper concerning amendments to the PRIIPs KID. We support the overall objective of the PRIIPs Regulation to enhance consumer protection and improve retail investors’ confidence in PRIIP KIDs. Moreover, we do agree that improving the transparency of the products offered to retail investors will contribute to this aim.

1. **Under the current PRIIP-Regulation (Level 1) setting, the DAV considers transparency and comparability to be top priorities:**

Improving transparency and helping retail investors to compare different products via a single accurate, fair, clear and not misleading pre-contractual document was and still is the main motivation for the PRIIPs Regulation. In order to ensure uniform implementation throughout the EU, the EU regulations and not the EU Directive were chosen as the path to follow. This avoids diverging regulations in the EU member states for the benefit of consumers (recital 4). The objective of comparability runs through the current PRIIPs Regulation. Therefore, consumers assume that all PRIIP KIDs are comparable. This should be respected in the RTS.

1. **A uniform and consistent approach across different products in scope is necessary:**

The aims of transparency, comprehensibility and comparability stated in the PRIIPs Regulation appear to be in danger if the changes which are described in the consultation to PRIIPs RTS would be implemented. Many proposals do not seem to be consistent:

First, the overall presentation and calculation of risk, performance and costs are not consistent with each other. Some provisions introduced for performance scenarios are not extended to the risk indicator (e.g. formulas for ongoing premiums) or costs (e.g. deletion of intermediate values).

Second, some methods applied to performance and costs and not self-consistent. For instance, the new method for the performance scenarios mixes several different concepts. It is very doubtful whether these different concepts result in a consistent approach when put together which would allow meaningful representation of products as well as comparability between different products. The required change in the presentation of performance information is also inconsistent. The consumer's understanding suffers from these inconsistencies.

1. **A self-consistent holistic approach is needed for performance scenarios**

While it is a standard approach to use the concept of risk premia it is not clear how this fits consistently into the existing methodology for categories 2 and 3. Also the different methods for determining the risk premia for different assets do not seem to form one consistent approach. We would prefer a more holistic approach that uses a single methodology consistently across all products in scope so that consumers can rely on truly comparable performance scenarios.

1. **Cost indicators must be meaningful for all products and all cost systems:**

Similarly we are worried that the suggestions in the costs section are not an improvement for consumers. The changes seem to be custom made for funds and the typical costs structure of funds. Insurance products often have different costs structures than funds. Often the cost structures are not linear (i.e. costs changes over the term of the contract) and there are several reference values.

The RIY has the benefit that it works across different costs structures and gives the effects of the costs based on one reference value. Thus RIY ascertains comparability. Therefore, under the current provisions consumers are able to compare different cost structures for overall costs as well as the breakdown of costs. 24 figures as currently proposed by EIOPA would not only overload consumers with information but also hamper comprehensibility and comparability due to different reference values used.

1. **A holistic review of the PRIIPs Regulation and the RTS after a thorough analysis of the existing regulation and consumer testing of new approaches is necessary:**

We believe that it is not meaningful to perform quick fixes on the current methodology. Time should be taken to develop methodologies that work equally well for all products in scope. Furthermore, the current proposals for presenting costs, performance scenarios and MOP contain too much information. We fear the aims of the (generic) PRIIPs KID to be accurate, fair, clear and not misleading, cannot be achieved by the current proposals and the quality of information would be hampered.

Therefore, we are in favour of a single holistic review instead of a gradual approach. An in-depth analysis of different methodologies as well as more comprehensive consumer testing before the adaptation any changes should be conducted.

<ESA\_COMMENT\_PKID\_1>

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

<ESA\_QUESTION\_PKID\_1>

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<ESA\_QUESTION\_PKID\_1>

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

<ESA\_QUESTION\_PKID\_2>

TYPE YOUR TEXT HERE

<ESA\_QUESTION\_PKID\_2>

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

<ESA\_QUESTION\_PKID\_3>

The German Association of Actuaries (DAV) considers an adjustment of the delegated PRIIPs Regulation in several steps inappropriate for the following reasons:

* Multiple adjustments reduce the acceptance and increase the distrust in the PRIIPs KID among consumers and intermediaries.
* Multiple adaptations of the RTS must be implemented. Expenses will be paid by the consumer.

In view of the problems that have been identified, we consider it necessary to adjust the RTS. However, we also believe that both the PRIIPs Regulation and the delegated PRIIP Regulation need to be amended at the same time in order to resolve the problems that have been raised. Therefore, we suggest to wait until the overall review as planned by the European Commission.

Furthermore, it is necessary to give the financial industry sufficient time for implementation. Experience with such legislative modifications shows that 12 to 18 months is required.

<ESA\_QUESTION\_PKID\_3>

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

<ESA\_QUESTION\_PKID\_4>

The German Association of Actuaries (DAV) considers an adjustment of the delegated PRIIPs Regulation in several steps inappropriate for the following reasons:

* Multiple adjustments reduce the acceptance and increase the distrust in the PRIIPs KID among consumers and intermediaries.
* Multiple adaptations of the RTS must be implemented. Expenses will be paid by the consumer.

In view of the problems that have been identified, we consider it necessary to adjust the RTS. However, we also believe that both the PRIIPs Regulation and the delegated PRIIP Regulation need to be amended at the same time in order to resolve the problems that have been raised. Therefore, we suggest to wait until the overall review as planned by the European Commission.

Furthermore, it is necessary to give the financial industry sufficient time for implementation. Experience with such legislative modifications shows that 12 to 18 months is required.

<ESA\_QUESTION\_PKID\_4>

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

<ESA\_QUESTION\_PKID\_5>

TYPE YOUR TEXT HERE

<ESA\_QUESTION\_PKID\_5>

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

<ESA\_QUESTION\_PKID\_6>

The German Actuarial Association shares the view of the ESAs that adaptations to the current requirements are necessary. We would like to take the opportunity to critically comment on the following topics:

In our view it is of utmost importance to perform any modification to either of the different sections of the PRIIP (i.e. disclosure of risk, performance or costs) not on an isolated view, but to take possible side effects on other sections of the PRIIP-KID into account, e.g.

* if intermediate performance scenarios were to be deleted, then an intermediate disclosure of costs should also be removed from the PRIIP,
* if performance scenarios for regular premium products were derived differently than for single premiums (cf. one of the current proposals for category 2), so should the risk indicator.

Therefore an isolated modification of one of the different sections not taking into account its impact on the other sections should in our view be avoided and hence in our view a holistic approach to amending the requirements should be taken instead.

We appreciate the ESAs proposal to void the stress scenario from the PRIIP, since its different methodology compared to the other performance scenarios may yield to (potentially very) misleading information (e.g the stress scenario might yield higher returns than the moderate or even favorable scenario) and hence undermine customer’s faith to the PRIIP. If in place of the stress scenario an indication of the minimum return (should it be understood as “worst case return”) is to be included, it is unclear whether this will refrain customer’s from actually pursuing their old age provision. One could be better of the show an investment guarantee (if applicable for the product) when such a “worst case” assessment shall be performed. Taking into account the required narrative within the risk indicator (that one could lose money by investing in the product) this proposal may prove helpful.

Regarding the proposed removal of intermediate scenarios our view is mixed: First and foremost, if these scenarios were removed, then so should the disclosure of intermediate scenarios in the costs section. Taking into account the “information overflow” for the customer a deletion of the intermediate scenarios can be a good idea to overcome this issue. However, especially considering long-term contracts (e.g. with a guarantee at maturity) the lack of information on possible intermediate values (e.g. with no guarantee) might be misleading for the customer. The intermediate values present market values for some products but surrender values for non-traded products. The difference cannot be seen in the current KIDs. Therefore, thorough consumer testing should be carried out in advance to test if consumers judge the provided information correctly and how it could be improved.

Finally, we would refrain from disclosing any probability attached to the performance scenarios, since this will mislead (the potentially financially illiterate customer) and due to the very nature of a modelling approach will be “wrong” as well. Whereas the application of “what if scenarios” may prove useful – if appropriately defined – to help the customer understand the different risk-return profile of different products, we would advise against the disclosure of any (potentially artificial) past performance (cf. our comments on question 26).

<ESA\_QUESTION\_PKID\_6>

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

<ESA\_QUESTION\_PKID\_7>

As already indicated in our answer to question 6, it is of utmost importance to derive a consistent approach to all sections of the KID. If intermediate performance scenarios were removed, so should an intermediate disclosure of charges.

If intermediate scenarios cannot be properly assessed for structured products, this might be an issue of the proposed bootstrap methodology (since in the simulation one will only observe those returns that have been observed in the past five years). A “proper” derivation of the intermediate scenarios of some highly structured products might therefore only be possible if the underlying methodology for products of category 3 would be amended, e.g. by means of a stochastic model capturing the key drivers of the underlying product.

<ESA\_QUESTION\_PKID\_7>

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

<ESA\_QUESTION\_PKID\_8>

The methodology of deriving the stress scenario and the other performance scenarios has to be consistent in order to avoid any unintended consequences (e.g. stress performing better than favorable scenario). The German Association of Actuaries (DAV) welcomes the proposal to delete the stress scenario. We also welcome the fact that capital guarantees should be used instead. In the case that no capital guarantees are included in the PRIIP, we deem the proposed text useful.

<ESA\_QUESTION\_PKID\_8>

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

<ESA\_QUESTION\_PKID\_9>

We appreciate the ESAs will to amend the current specification of the performance scenarios. However, we raise serious concerns as to whether the proposed methodology helps to improve the current methodology due to several reasons, which we want to summarize here, thereby commenting on questions 9 to 14 at once:

* The proposed methodology requires assessing each and every asset of an underlying portfolio according to its reference rate and e.g. an estimate for its expected dividend payments.
  + The ESA RTS proposals do not indicate which reference rate shall be chosen, e.g. for a multinational company traded on different exchanges in different countries.
  + The ESA RTS proposals do also not indicate how to determine a somehow appropriate estimate for future dividends. One could either apply a historic estimate which may yield the same issues as the current methodology of historically estimating the drift. Or one could try to obtain an estimate of implied dividends by futures prices or traded options on the considered assets. However, for those assets with a non-existing futures market (in our view many assets) or with a non-existing or not liquid enough options market (by the way which maturity, strike levels, etc. to choose?) this estimate is in our view bound to fail as well.
  + Further, do the ESAs assume a risk premium of 0 for indices such as EURO STOXX 50 which by definition are price indices and therefore will never “earn” any dividends at all?
* In the view of the German Association of Actuaries (DAV), the return potential of an asset should in general coincide with its risk. Further, (historical) volatility estimates are in our view rather stable especially when long-term PRIIPs are considered and hence the assumed risk premium could be somehow linked to the volatility.
* For the PRIIP KIDs to actually deliver useful information – especially when long-term investments are considered – for the consumer to make an informed decision on their investments a PRIIP whose disclosure fluctuates heavily due to market movements should be avoided. Hence, any approach too much based on implied market expectations derived by options, etc. is in our view to be assessed carefully.

See also b and c of the general comment.

<ESA\_QUESTION\_PKID\_9>

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

<ESA\_QUESTION\_PKID\_10>

In the view of the German Association of Actuaries (DAV) this approach is not feasible due to the (potentially not available) data required and has severe drawbacks, e.g.

* The ESAs do not make any proposals as to which reference rate to use for multinationals?
* The ESAs do not specify whether each and every underlying asset of a fund or portfolio must be subjected to this screening process?
* If different assets were treated together, how would you combine them and how would you estimate their expected risk premium on a portfolio level based on the current requirements?

In our view, there should be a clear link of a product’s / asset’s risk and its potential returns and not an arbitrarily complex assessment of future risk premiums which might be bound to fail (similarly as the current estimation of the expected return) for many asset classes.

Please also refer to our more general remarks in question 9 and to our remarks in general comments b and c.

<ESA\_QUESTION\_PKID\_10>

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

<ESA\_QUESTION\_PKID\_11>

In the view of the German Association of Actuaries (DAV), it might be very misleading to solely rely on (historically) expected or implicitly expected (implied) dividend yields as the only indicator for a risk premium, since in our view whenever an asset is “risky” it should (at least to common sense) be expected to earn a risk premium.

Further, we do see issues with the approach itself:

* If one considered assets that never paid any dividends in the past (compare many of the tech start ups for example) or that will never pay any dividends in the future (compare e.g. price indices such as EURO STOXX 50 for example), should one really expect those assets to have a risk premium of 0?
* Dividend rates can in our view either be estimated historically which potentially yields to the same issues that we observe for the current methodology or derived implicitly from e.g. futures or options markets if any of this markets (sufficiently) exists for the asset under investigation. Even if a sufficiently deep options market exists it is unclear which options to use (e.g. strike level, maturity, etc.) and the estimator will further be subject to market risk.

<ESA\_QUESTION\_PKID\_11>

* : How should share buyback rates be estimated?

<ESA\_QUESTION\_PKID\_12>

In the view of the German Association of Actuaries (DAV) this question indicates that various issues when the risk premium by expected dividend rates shall be estimated have not been addressed so far (such as the possible impact of buy back rates on this topic). Hence, the new approach – similar with the current framework – seems to imply many technical details that have not been thoroughly addressed so far. Hence, we would refrain from introducing a new methodology at this stage.

Further, in our opinion to make the PRIIP KID a success it also seems necessary that the required data for setting up the PRIIP KID can be obtained in a reasonable amount of time ,with a reasonable amount of workload and expenses.

See also b and c of the general comments.

<ESA\_QUESTION\_PKID\_12>

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

<ESA\_QUESTION\_PKID\_13>

As indicated in our answer to question 12, the German Association of Actuaries (DAV) thinks that a balanced approach on data requirements has to be taken. Although, the approach for money market funds seems reasonable, this modification further adds complexity to the PRIIP.

It is in our view e.g. unclear, how one were to transfer this approach e.g. to balanced funds which invest a significant portion of their account value into money-market like investments. Further, if additional requirements for other asset classes were introduced then there will be a lot of room for interpretation how to treat the different asset classes within the assessment and at the very end of the day, there might even be opportunities for “regulatory arbitrage” by exploiting the different methodologies.

See also b of the general comments.

<ESA\_QUESTION\_PKID\_13>

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

<ESA\_QUESTION\_PKID\_14>

The German Association of Actuaries (DAV) would like to make the following comments: No, an estimation of future (real-world) volatility shall not be (solely) based on implied volatilities as derived from option markets. This might be a meaningful approach for (very) short-dated financial instruments but in our view completely lacks economic sense when long-term financial products are considered: Deriving performance scenarios for e.g. a 30-year contract assuming an implied volatility that might currently be stressed due to short-term market deteriorations is not meaningful. Hence, volatilities to be used shall be “reasonable” which can in our view be obtained by the current approach.

See also b of the general comments.

<ESA\_QUESTION\_PKID\_14>

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

<ESA\_QUESTION\_PKID\_15>

The German Association of Actuaries (DAV) would like to make the following comments: Any artificial interference in the actual result of the modelling approach indicates that the model is not suitable for its desired task or at least has not been thoroughly tested in advance. We therefore think that none of the indicated (very artificial) “compensatory mechanisms” should be implemented, but the modelling approach should be thoroughly tested in advance instead.

See also b and e of the general comments.

<ESA\_QUESTION\_PKID\_15>

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

<ESA\_QUESTION\_PKID\_16>

In the view of the German Association of Actuaries (DAV) none of the proposed artificial compensatory mechanisms makes sense and is required if the modelling approach to assess the performance scenarios was thoroughly tested. Raising the unfavourable scenario to the minimum return observed may mislead consumers: e.g.

* think of fixed income funds that saw tremendous returns during recent years due to the ever decreasing interest rates. However, it seems unlikely that those returns can be repeated in the near future and hence the unfavourable scenario should not be artificially increased to the minimum return observed.

The same holds for the favourable scenario. It is in our view not meaningful to artificially decrease the favourable scenario obtained by the model with the only reason that this return has not been observed in the past so far.

See also b and e of the general comments.

<ESA\_QUESTION\_PKID\_16>

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

<ESA\_QUESTION\_PKID\_17>

In the view of the German Association of Actuaries (DAV) none of any artificial compensatory mechanism should be required when a sound methodology has been introduced and thoroughly tested beforehand.

See also b and e of the general comments.

<ESA\_QUESTION\_PKID\_17>

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

<ESA\_QUESTION\_PKID\_18>

In the opinion of the German Association of Actuaries (DAV) this approach also constitutes an artificial compensatory mechanism which would not be necessary if a sound methodology was provided.

See also b of the general comments.

<ESA\_QUESTION\_PKID\_18>

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

<ESA\_QUESTION\_PKID\_19>

Setting artificial maximum growth rates seems implausible (as already indicated in our answer to question 18). In general, the German Association of Actuaries (DAV) thinks that a sound methodology would not need any additional modifications afterwards. If the ESAs were however to provide a table of maximum growth rate assumptions, they could also come up with a calibration of a forward-looking stochastic modelling approach. The approach of a forward-looking simulation given an appropriate model and calibration could overcome many of the current issues within the PRIIP.

<ESA\_QUESTION\_PKID\_19>

* : More generally, do your views about the use of a probabilistic methodology vary depending on the type of product (e.g. structured products vs non-structured products, short-term vs long-term products)? For which type of products do you see more challenges to define a probabilistic methodology and to present the results to investors?

<ESA\_QUESTION\_PKID\_20>

Taking our general comments into account, we think that (given the scope and requirements of the PRIIPs directive into account) a sound and comparable approach for different types of products should actually be targeted. Hence, a methodology providing an appropriate assessment of the risk-return profile of (potentially very) different product types is in our view key: A forward looking stochastic modelling approach can in our view be applied to many different products and still provide appropriate results.

<ESA\_QUESTION\_PKID\_20>

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

<ESA\_QUESTION\_PKID\_21>

The application of so-called “what if scenarios” provides an easy and – if appropriately calibrated – nevertheless meaningful methodology to address the uncertainty of potential future returns to the customer. However for doing so, the definition of the what if scenarios to be actually applied for the products should differ for products with different risk-return profiles and should hence in our view be linked to the product’s risk indicator: The what if scenarios should reflect the product’s riskiness in terms of how the overall level and the spread between different what if scenarios should change for different levels of risk as indicated by the product’s risk indicator.

In the German market, for example, the assumptions underlying the what if scenarios applied to certain (state-subsidized) products are linked to their (stochastically derived) risk-return class.

It is however to be discussed if the current differentiation of product’s riskiness might be too broad for an application of the same what if scenario per risk category, e.g. comparing MRM class 3 which assumes a VaR-equivalent volatility between 12% and 20%. If one considered a product with volatility 12% and another one with volatility 19.99%, both would have been assigned to the same “what if scenario” although their future return potential may still be significantly different.

As already stated in our general remarks, by aligning risk indicator and performance scenarios, a holistic approach of how the risk indicator is determined and how potential what if scenarios were set, has to be taken.

<ESA\_QUESTION\_PKID\_21>

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

<ESA\_QUESTION\_PKID\_22>

A (forward-looking) simulation model can address many of the problems we currently face when performance scenarios are derived. Such a model is e.g. applied in Germany in the context of state subsidized products (e. g. Riester). This approach has also been transformed to an application for PRIIPs when products of category 4 are considered.

A similar modelling approach could also be formulated on Pan-European-level to provide a consistent assessment for different products to be considered.

<ESA\_QUESTION\_PKID\_22>

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

<ESA\_QUESTION\_PKID\_23>

Providing the customer with both the results based on a probabilistic approach and based on what if scenarios may confuse the customer. If this different information was also only provided for the dedicated product category of “structured products” the overall aim of product’s comparability will in the opinion of the German Association of Actuaries (DAV) be very much loosened and should hence be avoided<ESA\_QUESTION\_PKID\_23>

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

<ESA\_QUESTION\_PKID\_24>

A consistent approach for all types of products should be applied to increase the comparability of different product types.

<ESA\_QUESTION\_PKID\_24>

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

<ESA\_QUESTION\_PKID\_25>

As already indicated in our replies to the questions above, a consistent approach shall be applied to all of the products considered (where meaningfully possible). This would also avoid the possibility of cherry picking the methodology by the providers of slightly changing the product and hence moving the product’s category from 2 to 3 or vice versa, to take advantage of one or the other calculation methodology.

<ESA\_QUESTION\_PKID\_25>

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

<ESA\_QUESTION\_PKID\_26>

Past performance may be easily assessed for some product types, such as non-structured UCITS-funds, but it is impossible – not even defined – to assess for other product types, such as structured PRIIPs or insurance-based investment products.

Even an artificially defined past performance (e.g. derived by a historical backtesting approach) does not provide a meaningful assessment of the product’s “true” risk return profile, since it relies on assumptions that are by definition outdated and may hence yield to serious misinformation.

DAV would therefore strongly recommend to refrain from the application of any past performance in the PRIIP, since it might not only mislead customers but also prefer those products who have performed very well in the immediate past, but whose returns will likely be lower in the future (e.g. compare fixed income funds which saw tremendous returns due to the decreasing interest rates in the immediate past, but whose future performance is likely to be lower). This will also set (wrong) incentives to design products in such a way that would have performed very well in the immediate past (and “only” in the immediate past).

<ESA\_QUESTION\_PKID\_26>

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

<ESA\_QUESTION\_PKID\_27>

No, in the view of the German Association of Actuaries (DAV) past performance should be avoided since the information conveyed therein is generally misleading to the customer.

<ESA\_QUESTION\_PKID\_27>

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

<ESA\_QUESTION\_PKID\_28>

The German Association of Actuaries (DAV) advises against the application of past performance in general and hence would not further analyze if different presentation formats of the same in our view misleading information were possible.

In our opinion, averaging past performance data (if these were meaningfully defined at all) may even be more prone to provide inappropriate information to the client: Averaging past years data may severely underestimate the considered product’s volatility in returns and hence mislead customers even more than the (non-averaged) presentation of past performance itself already does.

<ESA\_QUESTION\_PKID\_28>

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

<ESA\_QUESTION\_PKID\_29>

The German Association of Actuaries (DAV) bases our reply on the current draft RTS issued by the ESAs stating that “*Past performance is not a reliable indicator of future performance. Markets could develop very differently in the future. It can help you to assess how the fund has been managed in the past.*”

The ESAs make a very good point here in stating that the disclosure of past performance could be misleading for future returns. Therefore, one should refrain from actually showing these numbers. Further, the last part of the statement suggests that a fund managers “alpha” can be assessed by past returns of the considered fund. We sincerely doubt that this is the case, since past returns may also be high/low due to the general market environment or reasoned by sheer good/bad luck.

<ESA\_QUESTION\_PKID\_29>

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

<ESA\_QUESTION\_PKID\_30>

In the view of the German Association of Actuaries (DAV) past and future performance scenarios should not be displayed concurrently, since there is a huge potential of misleading customers by this potentially very different approach and hence very different results. The introduction of a “general” narrative won’t be able to capture the tremendous differences and confusion that might occur.

<ESA\_QUESTION\_PKID\_30>

* : Do you see merit in further specifying the cases where the UCITS/AIF should be considered as being managed in reference to a benchmark, taking into account the provisions of the ESMA Questions and Answers on the application of the UCITS Directive[[4]](#footnote-5)?

<ESA\_QUESTION\_PKID\_31>

TYPE YOUR TEXT HERE

<ESA\_QUESTION\_PKID\_31>

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

<ESA\_QUESTION\_PKID\_32>

To our understanding the core idea of the PRIIPs directives was to disclose comparable information for different types of products by setting a common legal framework. Therefore, we do not think that by now introducing product specific approaches to differently disclose parts of the PRIIP-KID (here performance scenarios) actually complies with the overall goal of comparability.

Consumers will presumably be confused when they have to evaluate different disclosures for seemingly similar products.

This could at the end of the day yield customers to actually refrain from the PRIIP-KID as a valuable source of information at all.

<ESA\_QUESTION\_PKID\_32>

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

<ESA\_QUESTION\_PKID\_33>

The intermediate values for the indication of costs should be omitted. Reasons for this are:

* As a rule, insurance-based investment products have a non-linear withdrawal of costs. The costs for a product with 12 years RHP do not correspond to the costs for a product with 24 years RHP in half of the RHP. Although the interim values have been determined accurately and fairly, they are misleading.
* For the same reason, the interim values in the performance scenarios should not be used.

However, if the ESA still considers intermediate values to be meaningful, half of the RHP should continue to be used. This is the only way to compare products with the same RHP.with regard to intermediate values in a reasonable manner.

<ESA\_QUESTION\_PKID\_33>

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

<ESA\_QUESTION\_PKID\_34>

The intermediate values for the indication of costs should be omitted. Reasons for this are:

* As a rule, insurance-based investment products have a non-linear withdrawal of costs. The costs for a product with 12 years RHP do not correspond to the costs for a product with 24 years RHP in half of the RHP. Although the interim values have been determined accurately and fairly, they are misleading.
* For the same reason, the interim values in the performance scenarios should not be used.

However, if the ESA still considers intermediate values to be meaningful, half of the RHP should continue to be used. This is the only way to compare products with the same RHP.with regard to intermediate values in a reasonable manner.

<ESA\_QUESTION\_PKID\_34>

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

<ESA\_QUESTION\_PKID\_35>

Regarding i) The German Association of Actuaries (DAV) is of the opinion that the average annual costs for insurance-based investment products are particularly well suited to understand the cost impact of an insurance-based investment product and to compare this value with other PRIIPs. In particular, the costs of different PRIIPs for the same RHP are easy to compare. By the way, this also applies to the Reduction in Yield (Reductionin Return).

Regarding II) They rightly state in the review that the consumer should not be able overloaded with too much information. The German Association of Actuaries (DAV) is of the opinion that the average annual costs meet the requirement of the PRIIP Regulation that the PRIIP KIDs must be accurate, fair, clear and not misleading. In this respect the ratio total costs in the PRIIP-KID is to be rejected. If the total costs figure is of interest for the individual consumer, he can determine this simply by multiplication. It is therefore unnecessary to specify this figure separately.

<ESA\_QUESTION\_PKID\_35>

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

<ESA\_QUESTION\_PKID\_36>

The understanding of the German Association of Actuaries (DAV) is that "MiFID products" are not IBIP. Most IBIP are not market traded which means that MiFID methodology cannot be applied to them. Using different methodology for different product types is detrimental for comparability and makes it almost impossible for consumers to understand whether differences in the cost disclosure are caused by differences in methodology or by actual differences in the price of a product.

In addition, "MiFID products" do not show a regular premium payment. Regular premium payments are the norm for IBIP in many markets. By total costs we mean the sum of all costs according to the current RTS. For a fund with 5% entry costs and 1.7% ongoing costs and RHP of 15 years, total costs of EUR 2654 are reported, which corresponds to 26.54%. For an RHP of 10 years, total costs of Euro 1997 are reported, which corresponds to 19.97%. What does this figure mean? No investment is the best decision? Every investment is expensive? We prefer fair, accurate, clear and not misleading indicators. We also prefer a limited number of a few reasonable indicators. The reduction in yield with the indication of the return before and after costs as well as the average annual costs are such indicators that meet these requirements. In our opinion, these ratios are compliant with Directive 2014/65/EU (MiFID II) and also compliant with Directive 2016/97/EU (IDD).

<ESA\_QUESTION\_PKID\_36>

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

<ESA\_QUESTION\_PKID\_37>

TYPE YOUR TEXT HERE

<ESA\_QUESTION\_PKID\_37>

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

<ESA\_QUESTION\_PKID\_38>

TYPE YOUR TEXT HERE

<ESA\_QUESTION\_PKID\_38>

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

<ESA\_QUESTION\_PKID\_39>

The German Association of Actuaries (DAV) welcomes the fact that the ESAs continue to provide for RIY as a ratio in the PRIIP-KID. We also welcome the fact that the return before and after costs must also be stated. With these values, the consumer can immediately understand the relationship between return and the impact of costs on return and easily compare different products. The ratio is accurate, fair, clear and not misleading. In addition, we do not consider it necessary to indicate the percentages for holding periods of 1 and 5 years. However, these values show the effect of the costs with non-linear cost abstraction.

Unfortunately, the second part of the table does not fulfil the above requirements (accurate, fair, clear and not misleading). On the contrary, the consumer is faced in the second part with 18 figures. The average consumer is likely to be overloaded with this multitude of values and terms. In addition, the breakdown of costs into types of costs provides an accuracy that is irrelevant to the consumer's investment decision. The PRIIP-KID is overloaded with information at this point. As already explained in question 35 we consider the average annual costs to be appropriate.

In addition, the ESAs recommend listing cost rates and bases in the "Description of costs" column. For regulatory reasons, there are a large number of cost rates and reference figures for insurance-based investment products. This information must be given at another point in the pre-contractual information and there is no need to list it in the PRIIP-KID or to list it again. This level of completeness in the PRIIP-KID overloads the PRIIP-KID without a value added.

It is also to be noted that there are further bases with many products to be found beside the base mentioned. For insurance-based investment products, space and display problems might result.

We therefore propose the following table, because this table is comprehensive and comparible with tables of different products:

|  |  |
| --- | --- |
| When you invest [10.000 / 1.000 EUR per year]  We have assumed the product performs as shown in the moderate performance scenario | If you exit after [recommended holding period] years |
| average annual costs | x Euro |
| Impact on return | |
| Return per year before costs | % |
| Return per year after costs | % |
| Reduction in return each year due to costs | -% |

This table contains all information on the costs a consumer needs to make his sound investment decision. This table makes insurance-based investment products easily comparable with other PRIPs.

<ESA\_QUESTION\_PKID\_39>

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

<ESA\_QUESTION\_PKID\_40>

The German Association of Actuaries (DAV) welcomes the fact that the ESAs continue to provide for RIY as a ratio in the PRIIP-KID. We also welcome the fact that the return before and after costs must also be stated. With these values, the consumer can immediately understand the relationship between return and the impact of costs on return and easily compare different products. The ratio is accurate, fair, clear and not misleading. In addition, we do not consider it necessary to indicate the percentages for holding periods of 1 and 5 years. However, these values show the effect of the costs with non-linear cost abstraction.

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In addition, the ESAs recommend listing cost rates and bases in the "Description of costs" column. For regulatory reasons, there are a large number of cost rates and reference figures for insurance-based investment products. This information must be given at another point in the pre-contractual information and there is no need to list it in the PRIIP-KID or to list it again. This level of completeness in the PRIIP-KID overloads the PRIIP-KID without a value added.

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|  |  |
| --- | --- |
| When you invest [10.000 / 1.000 EUR per year]  We have assumed the product performs as shown in the moderate performance scenario | If you exit after [recommended holding period] years |
| average annual costs | x Euro |
| Impact on return | |
| Return per year before costs | % |
| Return per year after costs | % |
| Reduction in return each year due to costs | -% |

This table contains all information on the costs a consumer needs to make his sound investment decision. This table makes insurance-based investment products easily comparable with other PRIPs.

<ESA\_QUESTION\_PKID\_40>

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

<ESA\_QUESTION\_PKID\_41>

The German Association of Actuaries (DAV) welcomes the fact that the ESAs continue to provide for RIY as a ratio in the PRIIP-KID and at the same time intends to include the reduction in return before and after costs. See also answer to question 39.

<ESA\_QUESTION\_PKID\_41>

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

<ESA\_QUESTION\_PKID\_42>

The German Association of Actuaries (DAV) welcomes the return in percentage (old: reduction in yield - RIY). Furthermore we would welcome the inclusion of the annualized costs in the PRIIP-KID as a ratio. See also answer to question 39.

<ESA\_QUESTION\_PKID\_42>

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

<ESA\_QUESTION\_PKID\_43>

The German Association of Actuaries (DAV) welcomes the fact that the ESAs wish to make changes to the current regulations on implicit transaction costs. We also welcome the fact that they wish to comply with the principle of proportionality. The problem with thresholds is that verification mechanisms must be put in place when the threshold is reached. In this case, the complete system must also be implemented in IT terms. In this respect, threshold values do not reduce the testing and implementation effort or, if necessary, only in an initial phase. We therefore consider it more sensible to define non-liquid asset classes (real estate, infrastructure investments, mortgage loans), such as those in JC 2015 073. The values in the PRIIP-KIDs would be more comparable in this respect. In addition, a definition for all asset classes in accordance with the JC 2015 073 mentioned for new PRIIP could also increase comparability.

<ESA\_QUESTION\_PKID\_43>

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

<ESA\_QUESTION\_PKID\_44>

The German Association of Actuaries (DAV) shares your opinion, that simultaneous provision of both UCITS-KIIDs and PRIIPs-KIDs would be confusing and misleading for the retail investor, especially if both documents’ contents and indicators would differ. For instance, different risk indicators for the same product might confuse consumers.

<ESA\_QUESTION\_PKID\_44>

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

<ESA\_QUESTION\_PKID\_45>

TYPE YOUR TEXT HERE

<ESA\_QUESTION\_PKID\_45>

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

<ESA\_QUESTION\_PKID\_46>

TYPE YOUR TEXT HERE

<ESA\_QUESTION\_PKID\_46>

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

<ESA\_QUESTION\_PKID\_47>

TYPE YOUR TEXT HERE

<ESA\_QUESTION\_PKID\_47>

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

<ESA\_QUESTION\_PKID\_48>

TYPE YOUR TEXT HERE

<ESA\_QUESTION\_PKID\_48>

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

<ESA\_QUESTION\_PKID\_49>

TYPE YOUR TEXT HERE

<ESA\_QUESTION\_PKID\_49>

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

<ESA\_QUESTION\_PKID\_50>

The German Association of Actuaries (DAV) recognizes that the MOP regulations have to do justice to a large number of products. With the existing regulation, an approach has been implemented that does not solve all problems. Nor can it solve all the problems. The fact that this is the case is already stated in the recitals of the PRIIP Regulation. However, the rules now proposed are not improvements. They should therefore be rejected.

The following points speak against the delivery of PRIIP-KIDs and generic PRIIP-KIDs for the same product:

* The customer does not receive a PRIIP-KID, but 5. In addition further information comes to the investment options. The customer might be overloaded with the variety of the information.
* If we hand out PRIIP-KIDs with certain investment options to the consumer, there is a risk of the consumer making a non-independent decision.
* There are no specifications for which product constructions PRIIP-KIDs according to article 10 a RTS have to be additionally created.
* There are no guidelines on how to deal with the specification in the product inspection.

<ESA\_QUESTION\_PKID\_50>

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

<ESA\_QUESTION\_PKID\_51>

On the German market most IBIPs are deferred pension products. In particular, the RHP varies between 12 and 40 years (or even longer) and there are significant differences between single premium and regu-lar premium. In addition, many products have different guarantee levels in the savings phase. In order to provide consumers with accurate, fair, clear and not misleading information for the product, German insurers provide PRIIP-KIDs with the following differentiation criteria:

* different RHPs (12, 20, 30 and 40 years)
* Different types of premium payment (single premium and regular premium)
* different guarantees in the savings phase (0%, 25%, 50%, 75%, 100% of contribution / total of contri-bution)
* different costs (fee consulting yes/no)

In this case, 80 generic PRIIP KIDs would be made available to the consumer on the insurer's homepage for a MOP in the form of a unit linked product with guarantees under current law. In addition specific information is to be given for each investment option. So that these information sheets are consistent to the generic PRIIP-KIDs, these are to be provided for each RHP and for each type of payment. If such a MOP has e.g. 50 investment options 400 specific information must be generated, regularly examined and made available on the homepage of the insurer. The proposals in paragraph 10 of the JCP would not only increase the number of PRIIP KIDs per product, but also the creation times. Stochastic simulations are time-consuming.

The proposals (point 11, page 55 JCP) do not solve the problem. The spreads essentially depend on the cost and volatility of the investment options. In extreme cases, the range in SRI 7 can be so wide that it covers ranges from SRI 1 to SRI 6. In this respect, the table is not accurate, not fair, not clear and not misleading. In this respect, the table does not fulfil this requirements.

On the basis of the above arguments, the DAV rejects the proposals pursuant to Section 12.9 of the JCP. They do not improve the situation for the consumer compared to the current rules.

<ESA\_QUESTION\_PKID\_51>

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

<ESA\_QUESTION\_PKID\_52>

It is not meaningful and inconsistent to include the information on the overall product in the specific information on the investment option.

With regard to the proposals under point 12.9, there is a significant additional effort in the preparation and updating of the (generic) PRIIP-KIDS and the specific information. In addition, the proposals contradict Article 6 paragraph 3 of the PRIIP Regulation. For many MOPs it is simply not possible to present the information in a single concise and stand-alone document. Article 10(b) of the RTS was created for this purpose. The German Association of Actuaries (DAV) therefore rejects the proposals as they do not provide an improvement. See also the comments on question 51.

<ESA\_QUESTION\_PKID\_52>

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

<ESA\_QUESTION\_PKID\_53>

The German Association of Actuaries (DAV) does not see the proposals as an improvement on the existing regulations. The proposals do not lead to accurate, fair, clear and not misleading (generic) PRIIP-KIDs. We believe that it will confuse consumers and overload them with information if they were pre-sented with 84 different cost numbers only in the first cost table.

<ESA\_QUESTION\_PKID\_53>

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

<ESA\_QUESTION\_PKID\_54>

TYPE YOUR TEXT HERE

<ESA\_QUESTION\_PKID\_54>

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

<ESA\_QUESTION\_PKID\_55>

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<ESA\_QUESTION\_PKID\_55>

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

<ESA\_QUESTION\_PKID\_56>

TYPE YOUR TEXT HERE

<ESA\_QUESTION\_PKID\_56>

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

<ESA\_QUESTION\_PKID\_57>

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<ESA\_QUESTION\_PKID\_57>

1. COMMISSION DELEGATED REGULATION (EU) 2017/653 of 8 March 2017 supplementing Regulation (EU) No 1286/2014 of the European Parliament and of the Council on key information documents for packaged retail and insurance-based investment products (PRIIPs) by laying down regulatory technical standards with regard to the presentation, content, review and revision of key information documents and the conditions for fulfilling the requirement to provide such documents [↑](#footnote-ref-2)
2. Regulation (EU) No 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products (PRIIPs), OJ L 352, 9.12.2014, p. 1. [↑](#footnote-ref-3)
3. Regulation (EU) 2018/1725 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, OJ L 295, 21.11.2018, p. 39. [↑](#footnote-ref-4)
4. See “Section II – Key Investor Information Document (KIID) for UCITS” (in particular, Q&A 8) of the Q&A document available at: https://www.esma.europa.eu/sites/default/files/library/esma34-43-392\_qa\_ucits\_directive.pdf [↑](#footnote-ref-5)