	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:	Italian Banking Association (ABI)	
Disclosure of comments:	Please indicate if your comments should be treated as confidential:	Public
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Reference	**Comment**	
General Comments	The Italian Banking Association (ABI), representing the entire Italian banking industry, welcomes the opportunity to contribute to this consultation which raises issues of immense importance. As an introduction to our answers, generally speaking, we have a positive opinion of the inclusion in the KID of information on past performance where available in order to: • make it possible for UCITS and relevant non-UCITS funds to use the PRIIPs KID; • avoid the circumstances whereby, at the end of the period of exemption provided for	

under Article 32 of the PRIIPs Regulation UCITS and relevant non-UCITS funds, both the Key Investors Information Document (UCITS KIID) and PRIIPs KID must be produced.

However, we must underline the fact that the value and benefits of information on past performance is necessarily limited to those investment products which really have past performances. We strongly believe that this unification process should recognise and accept that information on actual past performance is only relevant to retail investors for non-structured collective investment schemes and some investment-based insurance products (for example multi-option products offering non-structured UCITS). For other investment products which do not include past performance (mainly PRIIPs in category I and III), simulating the past performance is generally not feasible, or, whenever possible, it could provide misleading results and fail to give us clear additional information as regards performance scenarios (which are based on historical evidence).

We therefore feel that future PRIIPs regulatory developments on this issue should necessarily accept that it is not possible to achieve perfect and complete comparability of the KID for all PRIIPs in terms of performance, since only a part of them can provide data on their past performances.

We understand that this point is of crucial importance and for this reason we:

- wish to point out that it is not possible to address properly the necessary and adequate modifications of the PRIIPs KID on this point within the very short timeframe of this consultation;
- sincerely hope that the period of exemption for UCITS and relevant non-UCITS funds from producing the PRIIPs KID provided for by Article 32 of the PRIIPs Regulation is extended in order to balance out all relevant factors related to these regulatory developments. This request would not affect retail investor protection, its simply implies the extension of the the period along which UCITS and relevant non UCITS funds should continue on producing the current KIID which undoubtedly provides retail investors with adequate protection,

	seeing as it was the first standard concise information document conceived by European Regulations in order to satisfactorily address the needs of the retail sector. The approach was subsequently adopted in PRIIPs Regulations for all PRIIPs. Furthermore, as regards the extension of the historical period, we are in favour of keeping 5 years of data instead of the proposed 10 years. In relation to the presentation of the performance scenarios, we suggest not making a change to the current table with 4 scenarios because it is well understood by distributors and advisors as 11 months have passed since the start of the KID regime. Since 2015, in the course of 3 consultations, the format of the scenario table has been discussed and has now been implemented. Changing this in the RTS would have a negative impact in terms of efficiency - as it would mean changing a format that has already garnered the consent of the market - and any change would entail significant IT costs in order to implement the new method. Regarding point 4.2.1. growth assumption for the RIY calculation, we propose using the current RIY tables, adding one optional table showing “raw cost” (i.e. MIFID cost).	
Q1	We think that this information is only relevant for certain products such as non-structured collective investment schemes and some investment-based insurance products. For products other than those [i.e. PRIIPs Categories I (derivatives) and III (non-linear investment product), and MOPs], we believe that simulated back-testing could lead retail clients astray with misleading information. Therefore, in order to factor in the option of including this kind of information for only the relevant products (non-structured UCITS and Category 2 PRIIPs), there should be a dedicated section of the KID or “Other relevant information” should be used. For all other PRIIPs, the current document format should remain unchanged.	
Q2	There is no doubt that category I, III PRIIPS and MOP’s face great challenges, especially for structured products, certificates and derivatives that have no data history and whenever the characteristics of the financial instrument depend upon market conditions and the funding level at the moment of the issuance. Besides being complex to process and calculate, simulated past	

	performances would have an entirely different weight to that based on actual past performances for products with a real history: simulated performances would represent the ex-post yield to maturity of different products (one for each day) whilst the past performances of funds represent the annual return for the same product. This would actually lead to non-comparable historical analysis which might undermine the purpose of the regulation. Furthermore, such change would potentially also impose significant demands on manufacturers' IT infrastructures.	
Q3	Yes, only non-structured UCITS, Category 2 PRIIPs should be allowed but there should be no obligation to display past performance in an annex to the PRIIPs KID. For all other PRIIPs (including Cat 1, Cat 3 structured securities and structured funds), displaying past performance would be either technically impossible or very complex (leading to non-comparability) and misleading. Indeed, this is consistent with the approach taken by UCITS Regulation which explicitly prohibits the use of past performance for structured UCITS (Article 36.1 of (EU) 583/2010 UCITS Directive : "The key investor information document for structured UCITS shall not contain the 'Past performance' section").	
Q4	We think that simulated past performances should not be included in the KID for the same reasons expounded in Answer 2. Past performances are already implicitly embedded in the current forward-looking scenarios and showing simulated past performances in a stand-alone table will not bring about any added value and may also actually confuse investors. It has the potential to be more misleading than helpful.	
Q5	As already observed in our Answers 2 and 4, we believe that simulated past performances should not be included in the KID.	
Q6	We agree with the proposed amendments to the narrative explanations aimed at clarifying that the performance scenarios are only an indication of the range of possible future returns, which are simulated. In addition to the narrative proposed by ESA on Section 6.1.2 (pag.38) we suggest: (i) Explaining in the KID what these scenarios represent with the inclusion of the following wording "These scenarios are based on future simulations. The stress scenario represents the worse 1% case at year 1 and 5% cases in any subsequent holding period. The negative scenario represents the worse 10% cases. The moderate scenario represents the median case, and the positive scenario the 10% best cases"; (ii) Keep part of [Element C]: "What you get will vary	

	depending on how long you keep the investment/product". From a general point of view, we would welcome new mandatory narrative to be prescribed and translated through official RTS addendum to avoid national interpretations / discrepancies among manufacturers. In relation to OTC derivatives, we suggest that the term 'investment' be replaced (for the sake of clarity) with 'transaction' or something along those lines, when the product is not for investment purposes, but for hedging purposes.	
Q7	We recommend not using a longer history as the 5 year history already has a levelling effect and a delayed increase/decrease of the risk in new market conditions. A 10-year history might result in very stable risk classes, but may (possibly) be significantly different from the market conditions experienced in the more recent past. As for the risk-free drift proposal, we feel that using riskless drift plus a risk premium would yield better results for category I and III PRIIPS, especially in the case of intermediate holding periods. On the other hand, historical drift is preferable for category II products. We believe that a solution that is acceptable for all PRIIPs categories would involve: 1. removing intermediate holding periods 2. keeping a historical drift. Intermediate Holding Periods have proven to be a real challenge in the industry, leading to several different approaches which resulted in non-comparable results even in the case of similar products. Our proposal would partially solve this issue whilst maintaining a simulation framework which meets also category II PRIIPS needs.	
Q8	As stated in answer 7, we think that intermediate holding periods should be removed. We do not believe that limiting presentation to two future performance scenarios (the favourable and the stress scenarios) is a good idea, as this would limit the value and utility of the	

	performance scenarios. As demonstrated by this first period of implementation, the current structure of performance scenarios is especially useful for structured products. The current table with 4 scenarios is well understood by distributors and advisors seeing as 11 months have gone by since the start of the KID regime. Since 2015, in the course of 3 consultations, the format of the scenario table has been discussed and has now been implemented. Changing this in the RTS would have a negative impact in terms of efficiency - as it would mean making a change to a format that has already garnered the consent of the market - and this would entail significant IT costs in order to implement the new method Structured issuers, distributor and insurers offering these products in MOPs now need a period of regulatory stability. Therefore, no deviation from the format of the scenario table should be envisaged for the following reasons: • Problems arising from graphical presentation: graphs cannot be used to present future simulated performance, this is not legally compatible with KID update requirements when KIDs produced under the original RTS with the 4 raw table scenario will need to be updated, the banks cannot run 2 KID generation systems in parallel, one with the 4 raw table scenario to update original KIDs, and one with graphs; • Problems linked to showing only 2 scenarios: limiting the performance scenarios to two extreme scenarios would omit or obscure relevant information on the return profile of many products, as well as certain other important features (e.g. barriers and early redemption features). We wish for regulatory stability and this can be achieved by keeping the format of the KID scenario unchanged. In addition, changing the format scenario would have a significant impact on IT costs as it would entail modifying previous IT developments on a large scale.	
Q9	Performance scenarios for Autocallable products Remark#1	

	The illustration of the Consultation shows that autocalled path are pushed to only up to the next intermediate holding period, but not to the RHP. The example says that in the moderate scenario, the product ends at year 2, and this value is pushed at year 3 (IHP) and then the RHP is left blank. This disregards one basic concept - that the 50% percentile over the 10,000 path could be a more favourable value than an autocall at year 2 (assume 2x 7.5% = 15% return), it could be an autocall at year 3 (22.5% return). Concerning the disclosure of fees and the RiY calculation, we wish to emphasise the fact that a simpler approach is needed if we are to be understood by retail investors. It must be borne in mind that the shortfall/costs associated with call/cancellation (withdrawn capital) upon fee payment would make disclosure incomprehensible for retail investors and this should be dropped in order to simplify matters. Disclosure should be more consistent with more traditional ways of disclosing fees (flat % upfront and running percentage) as frequently used as part of the MiFID II approach. In addition, to comply with point 24 (c) of ANNEX IV in the RTS, for the same scenario line (i.e. stress, unfavourable, moderate and favourable) the vast majority of manufacturers have implemented a methodology that can lead to a situation whereby different paths from among the 10,000 scenarios are selected at different holding periods, which is the correct thing to do because a scenario where the product is called after one year might be compatible with the 90th percentile, while at the three-year holding period, a scenario called after two years might be compatible with the 90th percentile. This concept is not present in the illustration in the consultation paper. Remark#2 In addition, the approach of “hiding the cells” after the next holding period after the autocall date causes a problem on the moderate scenario at year 5 in this example: you do not disclose to the investor on what scenario level the RIY (5 years) is computed. For the presentation of RIY, the preliminary assessment of the ESAs, is that it “would be relevant	

	to assume that the product is held up until the recommended holding period", in order to ensure that the retail investor is aware of all the potential product costs. The sentence in italics contradicts the table illustration immediately above: if ESAs recommend assuming a product is held to the RHP / maturity, then this should be illustrated in the scenario as well by having scenarios at the RHP as well. We would like to make reference to the EUSIPA recommendations on autocallable products for our view as to how autocallable products should be handled (recommendation 4 from the Sept. 2018 recommendations document published by EUSIPA). https://eusipa.org/wp-content/uploads/EUSIPA-PRIIPs-RTS-final-recommendations_SUMMARY_with-additional-context_SEP2018_version1_FINAL_for-publication.pdf A. Auto-call payments should not accrue interest to the RHP. In other words no reinvestment assumption should be made and the value of the autocall payment should be displayed as it is, i.e. "What you see is what you get approach". Growth assumption of 3% for RIY calculation Regarding point 4.2.1 growth assumption for the RiY calculation, the latest 19 July 2018 Q&A aimed to solve the problem of RIY being equal to 0% when the moderate scenario is zero by using a 3% growth scenario instead of the moderate scenario displayed. Although the intention is welcome, the solution proposed by the ESA is not robust: it only works in a case of a total loss, and even in this event, it leads to inconsistency with RiY calculations of other cases due to a discontinuity (or threshold) effect: Moderate scenario = 100 EUR (1%) => no use of the assumption, vs Moderate scenario = 0 EUR, use of the 3% growth assumption. This threshold effect is detrimental and difficult to justify to retail clients. For these reasons, we propose a robust alternative solution. In our view, the only viable solution to the structural problem caused by the RiY, cannot be a "quick fix", but rather a disclosure of "raw costs" (i.e. MIFID costs) in addition to the RiY table.	

We therefore suggest:

- first of all, rewording the terminology used in the Cost-over-time table or the calculation methodology as “impact on return”, making it more accurate and less confusing;
- then, adding an optional annex for the presentation of the raw costs, calculated using the total expense ratio (TER) method in % and cumulative EUR amount. The TER is currently used for UCITS funds and would allow for better comparability with the current UCITS KII regime. The optional table to be added in annex to the KID to show the “MIFID costs”:“ the table below shows the raw costs and annual total expense ratio of the product. The TER represents the annualised equivalent cost of the product which is different from the impact on return (Reduction in Yield) displayed in the previous table. TERs can be compared across all types of Priips.”

Regarding section “4.2.2. Other minor amendments”
We do not see any drawbacks to including a line which states the term, i.e. tenor or maturity of the product in the “What is this product” section; as for structured products, this need is already covered by the dates (issue date and maturity date) displayed.

Other general amendments:
Our proposal is to include the clarifications provided by the ESAs in the latest Q&A document regarding the presentation annualised vs. de-annualised performance to be included in the new RTS, clarifying that the rule should apply to the residual RHP and not to the initial RHP.

We request that the timeframe for adoption of any revision to the RTS be such that changes apply to manufacturers of structured products and manufacturers of UCITS funds at the same time.

We disagree with the approach proposed for performance fees. These fees cannot be aggregated with other fees since this would penalise funds which provide better performance. Indeed, the average perf-fees taken during the past period has to be added to management fees. In such circumstances, a fund which offered high returns during the reference period would show higher

	overall fees than a fund which suffered bad performance levels: this type of disclosure would be misleading for investors. The disclosure of the average past performance fees must be presented as such in a separate line with an explanation about how they are calculated. This solution is applied in the UCITS KIID and, in our opinion, it is the only appropriate one.	
Q10	Section 4.3 provides further arguments in favour of a postponement of the UCITS exemption and of a single in-depth review to take place in 2019/2020 before the end of the exemption. Indeed, insofar as a UCITS KIID would have to be produced for institutional clients which do not fall within the scope of PRIIPs, the abolition of this KIID will not be possible and we would still be obliged to produce two documents. In addition, the ESAs recognise in the consultation that the required inclusion of at least 6 or 7 articles of UCITS IV in the PRIIPs regulation could not be achieved effectively via the provisional review because such inclusion requires thorough scrutiny. This means that we will have to cope with a provisional PRIIPs regulation for UCITS which will be shaky up to the final review. Before cumulating provisions from the UCITS with provisions from the PRIIPS which would lengthen the PRIIPs KID, thorough analysis should be conducted in order not to overwhelm investors with an excess of data. If it is to be suitable and valuable for investors, the KID must continue to be concise and easily readable.	
Q11		
Q12		
Q13		