

**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:	Association of the Luxembourg Fund Industry (ALFI)	
Disclosure of comments:	Please indicate if your comments should be treated as confidential:	Public
<p>Please follow the following instructions for filling in the template:</p> <ul style="list-style-type: none"> <li>⇒ Do <b>not</b> change the numbering in the column "reference"; if you change numbering, your comment cannot be processed by our IT tool</li> <li>⇒ Leave the last column <u>empty</u>.</li> <li>⇒ Please fill in your comment in the relevant row. If you have <u>no comment</u> on a question or a cell, leave the row <u>empty</u>.</li> <li>⇒ Our IT tool does not allow processing of comments which do not refer to the specific numbers below.</li> </ul> <p><b>Please send the completed template, in Word Format, to <a href="mailto:CP-18-005@eiopa.europa.eu">CP-18-005@eiopa.europa.eu</a></b></p> <p><b>Our IT tool does not allow processing of any other formats.</b></p>		
<b>Reference</b>	<b>Comment</b>	
General Comments	<ul style="list-style-type: none"> <li>- Even though we welcome the ESA's initiative to review the PRIIPs KID rules, we caution the supervisory authorities to conduct a review which only targets certain aspects, and which may have significant consequences for the existing UCITS KIID rules. The UCITS KIID is a document which works well, and it should only be replaced if an equivalent standard is introduced which does not require further amendments in a short time. Therefore, we are rather firmly in favour of a broad review undertaken by the European Commission as envisaged by the legislation within two years' time (following a postponement of the UCITS KIID exemption by two years via a quick fix).</li> <li>- Given that more text and graphs are suggested to be included, the length of the KID should be extended to four pages.</li> </ul>	

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	<ul style="list-style-type: none"> <li>- There is a need to align the PRIIPs KID Regulation to the MiFID II and IDD in terms of presenting costs and performances to avoid that non-professional investors are misled. Under MiFID II - and also under IDD - only costs “not caused by the occurrence of the underlying market risk” shall be aggregated and disclosed to clients. Hence, as it stands the PRIIPs transaction cost figures cannot be legitimately used for the purpose of cost disclosure under MiFID II and IDD.</li> <li>- The ESAs state in the introduction of the consultation that “it is necessary 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”. However, we believe that another pressing and key issue has been overlooked. The current arrival price methodology for transaction costs results in misleading information for the investors. We refer in this context to the explanations in EFAMA’s evidence paper (dated 23 March 2018 / 28 June 2018) and EFAMA’s suggestions to address the PRIIP KID’s shortcomings (dated 10 September 2018).</li> <li>- We support the submission of the European Fund and Asset Management Association (EFAMA).</li> </ul>	
Q1	<p>We particularly welcome the proposal to introduce past performance in the PRIIPs KID, which is a recognised and well-understood concept for retail investors. This has been a long-standing requirement from the fund industry <u>instead of</u> using future performance scenarios. We suggest that the inclusion of past performance should be decided upon as part of the comprehensive PRIIPs review and accompanied by potential changes to the Level-1 Regulation and the PRIIPs KID’s length to properly implement this in the PRIIPs KID.</p>	
Q2	<p>Although we have implemented the UCITS KIID rules a couple of years ago, adding past performance to the PRIIPs KID has the potential to create significant technical challenges (system updates, EPT adaptations, etc.). It is also clear that if more information is added to the PRIIPs KID, it is necessary to extent the size limit to four pages. Structured UCITS are currently not required to include the past performance section. We believe that this should also be the case for structured UCITS and AIFs when producing a PRIIPs KID.</p>	
Q3	<p>We agree that it would be appropriate to base this information on past performance on the UCITS KIID rules. The fund industry and their investors are already familiar with this approach, which is a</p>	

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	tested and efficient concept.	
Q4	Under the UCITS KIID rules, a similarity test is conducted to find suitable simulated past performance. We think this information would also be helpful for investors investing in other types of PRIIPs.	
Q5	We think the PRIIPs KID should leverage on the UCITS KIID rules, including a prominent disclaimer where performance is simulated.	
Q6	<p>Based on the fund industry’s experience, the implementation of past performance for UCITS required considerable effort. There are PRIIPs other than funds that do not have past performance.</p> <ul style="list-style-type: none"> <li>- More prominent statement that the scenarios are based on simulations:</li> </ul> <p>We think an additional narrative would provide useful information for investors.</p> <ul style="list-style-type: none"> <li>- Shorten the narrative explanations and highlight the key messages in bold:</li> </ul> <p>We think the text should be as concise and short as possible. It would also be helpful for the reader to be guided to important aspects by highlighting certain key words.</p> <ul style="list-style-type: none"> <li>- New headline and introductory remarks for performance scenarios:</li> </ul> <p>We think the new presentation is clear for a retail investor. The headline “Simulated indicative future performance” might even be more appropriate to illustrate existing uncertainty regarding the forecasts.</p> <ul style="list-style-type: none"> <li>- Amendments to narrative explanations Elements A to D:</li> </ul> <p>Generally, we think this narrative information is helpful. However, for retail investors, the addition of more text can be challenging or even misleading. In particular we do not agree with the following text:</p> <p>“... does not take into account the situation where we are not able to pay you.” We think this is not suitable from an investment fund perspective, because the manager does not make any “payments”.</p> <p>“The figures shown include all the costs of the product itself and include the costs of your advisor or distributor.” Order fees or fees arising from independent investment advice are not included.</p>	
Q7	<p>We think more time would be needed to explore the proposed options.</p> <ul style="list-style-type: none"> <li>- Future performance scenarios anchored in the risk-free rate of return:</li> </ul>	

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	<p>It was a proposition considered with interest during former PRIIPs consultations, but was never concretely tested and as such would require further practical consideration being prescribed as a new methodology for the PRIIP KID.</p> <ul style="list-style-type: none"> <li>- Amended approach and presentation for future performance scenarios to highlight the range of outcomes:</li> </ul> <p>We think that from a retail investor perspective, it would be good to reduce information by reducing the number of scenarios. The graph on page 39 looks reader friendly and seems to be a good way to present the range of possible returns. However, one must bear in mind that other parts of the PRIIPs Regulation are based on the existence of the current four scenarios.</p> <ul style="list-style-type: none"> <li>- Extend the historical period used to measure performance:</li> </ul> <p>We do not think that this option will prevent the bias of a particularly favourable economic trend that we are experiencing today and this will also require some PRIIPs manufacturers to source additional data.</p>	
Q8	<p>Having tested the UCITS KIID for six years now, we believe that a graphical presentation has proven to be an easy way to illustrate fund performance to investors.</p>	
Q9	<p><b>4.2.1</b> We welcome the proposal to define standards on how the MRM is to be calculated for pension plans. We agree that a (Monte-Carlo) simulation approach as proposed within section 4.2.1 could serve as a basis for the calculation. The proposed sample size (10000 paths) should be sufficient given the quantile under analysis. We further recommend that the performance scenarios for pension plans should also be calculated following an equivalent approach.</p> <p><b>4.2.2</b> We have no particular comment.</p> <p><b>4.2.3</b> We support the increased number, but are not sure whether the 300 characters will be sufficient.</p> <p><b>4.2.4</b> We agree with the proposed text, but see a need to</p> <ul style="list-style-type: none"> <li>- allow 300 characters for the additional text;</li> <li>- extend the length of the KID itself to four pages.</li> </ul> <p>We think similar amendments (300 characters) should be implemented for narratives related to carried interests.</p> <p><b>4.2.5</b> We believe that the RIY approach is not the most appropriate one for investment funds and may mislead non-professional investors. Furthermore, investors acquiring funds via MiFID</p>	

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investment firms would receive different ex-ante and ex-post cost disclosures, which may lead to investor confusion. While RIY is not the most appropriate methodology, we believe that to ensure comparability between products a unique percentage (3 %) instead of the moderate performance scenario should be used in all calculations. The 3 % will however overstate the cost for low volatility products such as money market funds. For high volatility products, the use of 3 % may significantly over- or understate the actual observed fees during the holding period. However, we think it would be necessary to test this proposal.

**4.2.6** We agree with the proposal to add a heading for the term of the product.

Q10

**4.3.1**

- proposal to maintain the UCITS KIID for professional investors:

We strongly oppose the prospect of having to produce UCITS KIIDs for professional investors when the exemption for UCITS expires. The content of the UCITS KIID was primarily designed for retail investors and not for institutional investors. The latter are anyway not interested in receiving the UCITS KIID, because they receive or request more detailed information tailored to their needs. . This would also entail substantial efforts and costs for asset managers to maintain and produce two different types of documents (with a certain lack of comparability).

- ESAs considering to only include cross-references to the UCITS KIID Regulation (instead of implementing new rules in the PRIIPs Regulations)

We think it is necessary to implement the UCITS KIID rules (that will be retained) in the PRIIPs Regulations (instead of using cross-references), because it might be necessary to further adapt some of these UCITS KIID rules to alternative funds and PRIIPs other than UCITS funds. We also think that this will make the new provisions easier to consult.

**4.3.2** We think the PRIIPs Regulation is clear enough. In case of a self-managed entity, the PRIIP manufacturer could be any of the following entities:

- the asset manager or fund promoter/sponsor (which reference might prove particularly relevant for PRIIPs that are managed by a third-party management company);
- the PRIIP/fund board;
- the (third-party) management company or an AIFM entity for AIFs (in case the self-managed entity delegates some of its activities).

**4.3.3** We welcome the implementation of these rules and advise that articles 4(6) and 4(12) are

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implemented as part of the current review (and not at a later stage in the context of a wider review as suggested in the consultation paper). Concerning article 4(6), we think that it would be valuable for investors to be informed of the fact that the PRIIP manufacturer is an entity of a larger group which name may be unknown to them. We also think that the country where the fund is regulated and its regulatory authority may also be important information to some investors which information is covered by article 4(12).

These modifications should also be extended to PRIIPs other than funds in order to ensure consistency and a level playing field.

**4.3.4**

- article 7, specific contents of the description:

The information on the investment strategy (i.e. how the product is trying to generate a return) is a core feature of a UCITS product. Therefore, this information has to be disclosed in the PRIIP KID. It is our understanding that this already forms part of the PRIIPs KID in line with the current PRIIP rules. We think that it should be applied to the other types of PRIIPs as well.

- article 9 on risks:

We are of the view that the UCITS KIID rules on risk disclosure, although improvable, are preferable to those of the PRIIPs KID which do not allow to explain risks (due to the limitation of characters). From an investor protection perspective, we think that it is crucial that investors are informed about the main risks of a product in a narrative format that is clear and concise. This is also needed as the risk indicator might not always give a reliable measure of risks since it is based on historical data that cover five years only. We think that the current PRIIP KID's three-pages extent allows for a presentation of main risks in a narrative format.

- article 15 to 19 on past performance

We think the PRIIPs KID should leverage on the UCITS KIID rules, including a prominent disclaimer where performance is simulated. We think that more time would be needed to analyse and avoid any unexpected technical challenges when adopting the UCITS KIID framework for PRIIPs KIDs, in particular with regard to alternative investment funds that are currently not subject to these requirements.

- article 20

- o 1(a) name of depositary: we agree that the depositary should be mentioned, because it

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- performs functions about the safekeeping of assets that are important for the investors;
- 1(b) where to obtain information such as the prospectus and the last annual report: this is useful information, because the documents need to be communicated to the investor before subscription; however, it is important to ensure that the implementation does not create an unlevel playing field between the different types of PRIIPs;
- 1(c) where to obtain the latest prices of units: this information is also useful information for investors;
- 1(d) statement about the tax legislation of the UCITS' home Member State: a comparable statement is already included in the narratives (element F) of the performance section;
- 2. Right to switch between compartments: this information is not considered essential enough to be included in the KID;
- 3. Available share classes (other than the one presented in the KID): this information is in our view also not needed as it can be easily found in other communication tools. One must also bear in mind that the concept of representative share classes does not exist under the PRIIPs Regulation.
- article 21, cross-references to other information: this provision is already included in the current PRIIPs Regulation.
- 4.3.5**
- articles 25-34
  - investment compartments (articles 25-27): this information does not have to be implemented in the PRIIPs Regulations, because in practice, KIDs are anyway produced per share class (per ISIN);
  - fund of funds (article 28): it is not necessary to include this information in the PRIIPs KID, because it forms already part of the PRIIPs KID in line with the current PRIIPs rules;
  - feeder UCITS (articles 31-34): it is not necessary to include this information in the PRIIPs KID in line with the current PRIIPs rules or has already been answered above;
  - past performance (article 35): master-feeder structures are a specific feature deriving from the UCITS Directive. We think that more time would be needed to analyse and avoid any unexpected technical challenges when adopting the UCITS KIID framework for PRIIPs KIDs.

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Q11	We anticipate that the inclusion of additional information on past performance will generate additional substantial efforts and costs for manufacturers of any kind of PRIIPs. It should be noted that this update will also trigger amendments in the PRIIPs templates (EPT). Generally, we think that a simplification of the information and formula should be considered. In any case, PRIIPs manufacturers would need sufficient time to implement any changes to the current content of the PRIIPs KID. As an illustration, several practitioners produce over 30'000 UCITS KIIDs per year, which may give an idea of the magnitude of retail documents that will need to be converted. We are unable to provide a consolidated overview of expected costs or benefits in the short time frame granted by the consultation.	
Q12		
Q13		