JOINT COMMITTEE OF THE EUROPEAN SUPERVISORY AUTHORITIES

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Draft Final Report following consultation on draft regulatory technical standards to amend the PRIIPs KID

Concerning amendments to Commission Delegated Regulation (EU) 2017/653 of 8 March 2017 on key information documents (KID) for packaged retail and insurance-based investment products (PRIIPs)

Contents

1. Introduction

The draft Regulatory Technical Standards (RTS) presented in this Final Report have been developed by the European Supervisory Authorities (ESAs: EBA, EIOPA and ESMA) pursuant to the Regulation (EU) No 1286/2014 on Key Information Documents for Packaged Retail and Insurance-based Investment Products[1] (hereafter, “PRIIPs Regulation”). The RTS proposes amendments to the existing rules in Commission Delegated Regulation (EU) 2017/653 of 8 March 2017[2] (hereinafter “PRIIPs Delegated Regulation”).

This Final Report follows a consultation paper (JC 2019 63) launched by the ESAs on 16 October 2019.

The RTS relates to the empowerments in Article 8(5) of the PRIIPs Regulation on the presentation and content of the Key Information Document (KID), including methodologies for the calculation and presentation of risks, rewards and costs within the document, and in Article 10(2) of the PRIIPs Regulation on the review and revision of the key information document. The ESAs have acted in view of their responsibility to review the application of RTS within their competence and to propose amendments where appropriate.[3]

Following this publication and the submission of the RTS to the European Commission, an endorsement procedure will take place as specified in Articles 10 to 14 of the ESAs’ founding Regulations. Subject to that procedure, in accordance with Article 13 of the ESAs’ founding Regulations, the European Parliament and the Council would subsequently be given the opportunity to express any objections to the RTS as adopted by the European Commission.

The ESAs have also made recommendations for targeted amendments to the PRIIPs (Level 1) Regulation. The ESAs signalled in the consultation paper issued in October 2019 that they would consider if such amendments were deemed necessary, in order to address the regulatory issues identified and ensure appropriate outcomes in terms of the understanding of KIDs by retail investors.

Following this Final Report, the ESAs will also consider the need for Level 3 guidance, such as Questions and Answers (Q&A), in order to clarify the application of the proposed rules. The ESAs will follow up,

[1] 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. 1-23.

[2] 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, OJ L 100, 12.04.2017, p. 1-52.

[3] Article 29(1)(d) of Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC OJ L 331, 15.12.2010, p. 48-83; Article 29(1)(d) of Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC, OJ L 331, 15.12.2010, p. 84–119; and Article 29(1)(d) of Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC, OJ L 331, 15.12.2010, p. 12–47.

in particular, regarding aspects that are relevant to clarify prior to the expected application date of the changes, in order to support the implementation of the new rules by market participants.

In summary, the amending RTS includes proposals in the following main areas:

(1) New methodologies to calculate appropriate performance scenarios and a revised presentation of these scenarios, with a view to ensuring that retail investors are not provided with inappropriate expectations about the possible returns they may receive;

(2) Revisions to the summary cost indicators and changes to the content and presentation of information on the costs of PRIIPs, to allow retail investors to better understand the different types of cost structures, as well as to better facilitate the use of this information by persons selling or advising on PRIIPs;

(3) Modifications to the methodology to calculate transaction costs to address practical challenges that have arisen when applying the existing rules, and address issues regarding the application to certain types of underlying investments;

(4) Refinements to the rules for PRIIPs offering a range of options for investment (MOPs) reflecting experience of challenges regarding the clarity and usefulness of the information, in particular to identify the product's full cost implications;

(5) The incorporation of existing provisions applying to investment funds into the PRIIPs framework, given the expiry of the exemption in Article 32 of the PRIIPs Regulation on 31 December 2021;

(6) The requirement for certain types of investment funds and insurance-based investment products to publish information on the past performance of the product and refer to this within the KID so that the availability of this information is known, and the information is published in a standardised and comparable format.

As regards the recommendations for targeted amendments to the PRIIPs Regulation, these concern the following issues:

(1) Despite the proposal in point (6) directly above, the ESAs would still recommend, as a preferred approach, to include past performance information within the main contents of the KID on the basis that it is key information to inform retail investors about the risk-reward profile of certain types of PRIIPs. Since it has been argued that the intention of the co-legislators was for performance scenarios to be shown instead of past performance, it is understood that a targeted amendment to Article 8 of the PRIIPs Regulation would be needed to allow for this. A consequential amendment is also considered necessary in this case to allow the 3 page limit (in Article 6(4)) to be exceeded to 4 pages where past performance information would be included in the KID;

(2) To avoid the co-existence of the PRIIPs KID and the UCITS Key Investor Information Document (KIID); this implies an amendment to the Directive 2009/65/EC [4] (hereinafter "UCITS Directive") so that UCITS managers no longer have to provide a UCITS KIID to retail investors;

(3) A change to Article 13(4) of the PRIIPs Regulation, which addresses successive transactions for the same PRIIP given significant practical challenges to apply the existing approach to UCITS regular savings plans;

(4) A suggestion that the co-legislators consider a minor change to facilitate the non-paper delivery of the KID.

The Final Report is divided into the following main Sections:

- Section 2 sets out the background to these final proposals;
- Section 3 summarises the outcome of consumer testing conducted by the European Commission, working in cooperation with the ESAs, on the presentation of performance information;
- Section 4 summarises the feedback provided to the October 2019 consultation paper and the ESAs' proposed way forward in view of this feedback;
- Section 5 includes the draft legislative provisions in the form of an amending RTS;
- Section 6 provides an impact assessment.

[4] Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS).

2. Background

2.1 Introduction

The ESAs initiated this review of the PRIIPs Delegated Regulation with the following principal aims:

- Allow the appropriate application of the PRIIPs KID by UCITS and relevant non-UCITS funds[5], subject to the end of the temporary exemption of such funds from the requirements of the PRIIPs Regulation;

- Address the main regulatory issues that have been identified since the implementation of the PRIIPs KID in 2018 to those products that are currently in scope.

The proposals made in the consultation paper of 16 October 2019 follow a previous consultation paper of the ESAs in November 2018 (CP 2018 60), which had similar aims, but which proposed more targeted amendments to the PRIIPs Delegated Regulation. Based on the feedback received to that consultation (CP 2018 60), as well as based on the decision by the co-legislators to extend the exemption for UCITS, the ESAs decided in February 2019 to defer their review and launch a public consultation on more substantive changes later in 2019.

2.2 UCITS exemption and ESAs' targeted review launched in 2018

The PRIIPs Regulation provides a temporary exemption for management and investment companies and persons advising on, or selling, UCITS from the obligation to produce and provide a PRIIPs KID (Article 32 of the PRIIPs Regulation). For such funds, a KIID is currently provided to investors in accordance with the UCITS Directive. This exemption was originally due to expire on 31 December 2019.

In the autumn of 2018, the ESAs initiated a targeted review of the PRIIPs Delegated Regulation. This was in view of the expected end of the exemption for UCITS at the end of 2019, and to address priority issues that had arisen since the application of the PRIIPs Regulation at the beginning of 2018.

While the ESAs were consulting on these amendments, discussions were initiated between the co-legislators to extend the exemption for UCITS until 31 December 2021. Once this extension was agreed, the ESAs decided that it would be more appropriate to undertake a more comprehensive review of the PRIIPs Delegated Regulation taking into account the additional two years before UCITS would be required to produce a PRIIPs KID[6].

[5] The exemption also applies to non-UCITS funds in Member States which extend the application of UCITS rules on the format and content of the UCITS key investor information to non-UCITS made available to retail investors (Article 32(2) of the PRIIPs Regulation).

[6] The Final Report to the public consultation was published on 8 February 2019 (JC 2019 6.2) (hereinafter "February 2019 Final Report").

2.3 Scope of the current PRIIPs review

In February 2019, the ESAs set out how they planned to conduct the review and the main areas of the KID that they intended to analyse[7]. It was also stated that:

> *the ESAs intend to focus their work on the need for amendments to the PRIIPs Delegated Regulation...However, where the information collected and analysis conducted on the application of the KID during the course of this work would indicate that changes to the PRIIPs Level 1 Regulation may be needed in order to achieve the optimal outcomes in relation to the requirements in the PRIIPs Delegated Regulation, the ESAs will consider whether it is relevant to additionally recommend such changes to the co-legislators.*

The ESAs did not include specific recommendations for amendments to the PRIIPs Regulation within the consultation paper issued in October 2019. Instead, the ESAs sought feedback from stakeholders on a number of options and issues that could require changes to the PRIIPs Regulation. Based on this feedback, as well as further analysis conducted, in this Final Report, the ESAs have included targeted recommendations to the co-legislators to amend the PRIIPs Regulation.

[7] See pages 13 and 14 of the February 2019 Final Report.

3. Consumer testing

3.1 Background and approach

A consumer testing study was undertaken as part of the work to develop the existing content of the KID in 2014 and 2015.[8] The study involved testing a wide range of different approaches to showing information on risk, potential rewards and costs, including *inter alia* the use of graphs, tables and different types of visual techniques. Given the range of options tested and depth of the evaluation, this study remains relevant when considering how the KID could be changed. During this current review the ESAs, therefore, continued to use the findings from this original consumer testing to inform their judgements as to which types of approaches are likely to be most effective from a consumer perspective.

Nonetheless, given that additional consumer testing would clearly bring added insights and evidence regarding the efficacy of the current KID as well as possible changes, from the outset of this review, the ESAs explored with the European Commission the possibility to undertake a further study. Within the timeframe, it was possible to launch a more targeted study that analysed different presentations of performance information. The testing was led by the European Commission, but was conducted with the assistance of the ESAs, and the content of the testing was based on options proposed by the ESAs.

On 23 May 2019, the ESAs submitted their proposed options[9] to be tested to the European Commission. On 19 July 2019, the European Commission informed the ESAs that three of the proposed options would not be included in the consumer testing on the basis of their compliance with the PRIIPs Regulation and their practical feasibility. The ESAs did not support the restriction of the scope of the consumer testing exercise, and set out their concerns in a response[10] to the Commission on 30 July 2019. In view of this, the ESAs sought feedback from stakeholders, as part of the public consultation, on a number of options that were not part of the consumer testing.

The timeframe for conducting robust consumer testing meant that the study needed to take place in parallel with other aspects of this review. In particular, it was necessary to consult stakeholders on proposed approaches to present information on performance without having the results from the consumer testing. A number of different approaches were therefore discussed in the October 2019 consultation paper, with the final decision being subject to the findings of the consumer testing, as well as the stakeholder feedback on these points.

Given that it was not feasible to conduct consumer testing on all sections of the KID during this review, the ESAs sought to gather feedback from a consumer perspective on the other main changes proposed

[8] Consumer testing study of the possible new format and content for retail disclosures of packaged retail and insurance-based investment products, published on 10 November 2015

[9] JC 2019 46

[10] JC 2019 55

in the consultation paper, with a focus on the information on costs. In particular, the ESAs held a Roundtable with consumer experts in December 2019[11]. A range of views were expressed during this meeting, but the following key discussion points are considered relevant to highlight regarding the approach and structure of the cost tables and summary cost indicators:

- The importance of standardised and simple approaches was highlighted. A key part of this is to avoid presenting too many different numbers, as this can overload consumers;

- While summary cost information (e.g. total costs) was seen as the most critical element, supplementary information, in a separate table, on the cost structure or breakdown can be informative for certain consumers. The key aspect is that the details need to be presented in a coherent and understandable way (without requiring expert knowledge), otherwise there is a risk of frustrating the reader;

- Although consumers generally find percentages more difficult to process, the use of percentage figures was generally supported as being necessary to enable comparison;

- Showing forward looking costs presents difficult challenges in relation to consumer understanding, given the need to use estimates and assumptions;

- Different views were expressed regarding the use of a reduction in yield measure as a summary cost indicator. However, there were considered to be benefits to being more transparent in the KID on some of the assumptions used to calculate the indicator, such as the assumed performance of the PRIIP;

- Very precise figures (e.g. multiple decimal places) can provide a false impression of accuracy for estimated figures.

Specific comments were also provided regarding the approach to show costs for autocallable products[12], for which the impact of costs can vary significantly depending on when the product is called. These were taken into account when finalising the proposals.

3.2 Findings of consumer testing and implications for ESA proposals

The results of the testing were published in February 2020 and were used by the ESAs when deciding on their final proposals to revise the presentation of information on performance.[13] Overall, the following key findings are relevant to draw attention to:

[11] Information on this event can be found via the following webpage.

[12] These products are automatically called (i.e. redeemed early) in specified circumstances, e.g. if a reference asset rises above a certain level.

[13] Retail investors' preferred option regarding performance scenarios and past performance information within the Key Information Document under the PRIIPs framework. FISMA/2019/016/C. Published 27 February 2020.

- Participants of the consumer testing generally made good investment decisions irrespective of the version of the performance scenario table[14] presented to them. This is considered to indicate that it may not be necessary to substantially change the current presentation, provided that appropriate figures are shown;[15]

- A revised version of the performance scenario table (referred to as the "probabilistic approach" in the consumer testing study) showed some improvements compared to the current table in terms of the understanding of relevant product features by participants. However, these improvements are not necessarily material, in particular when considered alongside the relevant policy objectives;

- There is considered to be evidence that supports the disclosure of past performance for relevant funds and insurance-based investment products, as well as future performance scenarios;

- The testing is not considered to provide evidence to support the inclusion of "illustrative scenarios"[16] in addition to performance scenarios for structured products.

[14] These tables are included in Annex V of the current PRIIPs Delegated Regulation.

[15] This is determined by the methodology underpinning the performance scenario calculations which is addressed in Section 4.3 of this Final Report.

[16] These intend to illustrate how the product performs in different market circumstances. See Section 6 of the October 2019 consultation paper and Section 4.5 of this Final Report.

4. Feedback statement

4.1 Respondents

In total around 100 stakeholders and stakeholder groups responded to the questions. The stakeholders included industry participants and associations from all sectors, including *inter alia* European associations, intermediaries, individual companies and consumer representative organisations.

4.2 General issues

Most stakeholders criticised the approach taken to the review and did not consider that the proposals made by the ESAs would resolve the issues that have been identified with the current KID. With reference to Article 33 of the PRIIPs Regulation, respondents argued first for a comprehensive review of the PRIIPs (Level 1) Regulation instead of seeking to address issues within the PRIIPs Delegated Regulation.

There was also agreement amongst respondents that there should be a single round of regulatory changes rather than a graduated approach. The vast majority of respondents therefore considered that it is preferable to align any changes with the expiry of the exemption for UCITS at the end of 2021. However, several respondents, mainly consumer associations, saw merit in implementing the changes as soon as possible. In addition, some respondents from the securities sector argued for the need for a transitional period for existing PRIIPs.

As set out in Sections 1 and 2 above, the ESAs have proceeded with proposed amendments to the PRIIPs Delegated Regulation, which are considered to be a basis for improving the KID. Nonetheless, the feedback received and analysis conducted has led the ESAs to conclude that it is relevant to recommend specific amendments to the PRIIPs Regulation at this time.

Regarding the timeline, the ESAs recognise that on balance it is preferable for the changes to be applicable from the beginning of 2022, in particular in order to provide an adequate implementation period. However, since this timeline is subject to the endorsement and scrutiny periods of the RTS by the co-legislators, it may need to be reviewed in the final amending Delegated Regulation. Provided that an adequate implementation period is given, and taking into account the feedback regarding the importance of a single regulatory change, the ESAs do not consider a transitional period for existing PRIIPs to be justified.

4.3 Methodology for performance scenarios

4.3.1 Introduction and summary of final proposals

This Section 4.3 discusses the feedback from the public consultation, the results of further extensive quantitative testing by the ESAs on a wide range of PRIIPs and the proposed way forward.

In summary:

- Respondents to the public consultation were opposed to the use of the core proposal in the consultation paper based on implied risk premia, namely dividend yield for equity products, (see Section 4.3.2);

- The quantitative testing by the ESAs indicated significant issues to apply this methodology to investment funds, (see Section 4.3.3);

- For non-structured investment funds and PRIIPs linked to these (e.g. unit-linked insurance-based investment products), based on the testing conducted, the ESAs are of the view that the most justified proposal from the perspective of its technical soundness and understandability for consumers is to use scenarios estimated more directly from the actual price history of the fund or a relevant benchmark, (see Section 4.3.4);

- For other types of PRIIPs, such as structured products, it is proposed to keep the existing methodology in the PRIIPs Delegated Regulation or to make minor adjustments. The main adjustment is to allow the PRIIP manufacturer to use lower percentiles of the estimated distribution of future returns used to generate the scenarios (i.e. to provide more conservative results) in certain circumstances, (see Section 4.3.4).

4.3.2 Feedback from public consultation

A general theme across the responses was that approaches which rely on external information are costly, because of the fees of data providers, which also increase when such data is used in regulatory or public documents. Therefore, a strong concern with the proposed methodology in the consultation paper as compared to the existing methodology, was the need to procure additional information.

With regard to the views received on the methodology consulted or on preferred alternatives, a wide array of opinions were provided with some pronounced disparity between manufacturers of the different main types of PRIIPs or financial sectors. From these main sectors, the following general themes were discernible from the responses:

- Providers of structured products expressed support for a methodology based on risk premia, but specific concerns were expressed regarding the use of dividends to estimate future growth expectations for equities, and some alternative approaches were preferred, in particular the use of standardised rates.

- Fund providers objected to the proposed methodology on the grounds of its costliness and complexity to implement. They also doubted that the results obtained would fully address the various issues related to the application of the current methodology for performance scenarios of investment funds. In terms of alternatives, there were different views mainly between an option using standardised growth rates, and one using the fund's actual history to determine relevant scenarios, such as the minimum or maximum observed over a 5 year period.

- Insurance providers expressed a preference for using a standard table of growth rates and volatilities.

Regarding more specific elements of the proposed methodology:

- Almost all respondents did not consider implied volatility to be a good measure to estimate future variance;

- Those who responded preferred the use of historical dividends in order to estimate the risk premium;

- Respondents were sceptical of the use of share-buyback rates, though it was recognised that this is an important factor for US stocks (technology stocks in particular).

4.3.3 Further analysis and quantitative testing by the ESAs

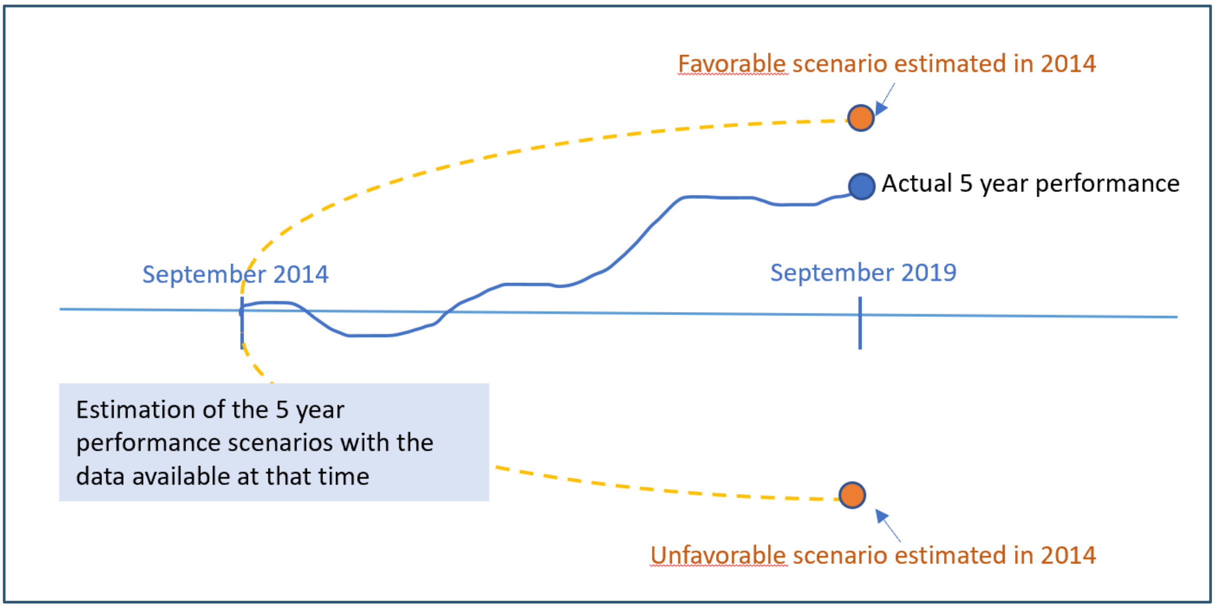
The ESAs stated in the consultation paper that they would undertake further work during the consultation period in order to test the proposed revised methodology and any other alternatives against a wider range of PRIIPs, before recommending any changes to the current methodology included in the PRIIPs Delegated Regulation. The sample of PRIIPs used for this work included 775 different investment funds selected at random but covering the range of different fund types, a sample covering a range of different types of structured notes, and over 80 deposits structured in different ways and linked to equities.[17]

The testing consisted in estimating the performance scenarios generated by the different methodologies and comparing them with actual performance over that time period as summarised in Graph 1 below (e.g. estimating the scenarios that would have been generated in September 2014 and comparing those to the actual 5 year performance as of September 2019).

The results of this testing are summarised in the sub-sections (i) to (iv) below.

[17] The testing sample did not consider other types of PRIIPs or components of PRIIPs, for example certain types of Category 1 PRIIPs or for components of PRIIPs that are dependent on factors that are unobserved in market (i.e. Category 4), given that it was not intended to change the performance scenario methodology applying to these aspects. With respect to insurance-based investment products, the sample of funds and structured products was considered to reflect the full range of assets or PRIIPs that may underlie these products.

GRAPH 1: HOW BACK TESTING WAS CONDUCTED



(i) Current performance scenario methodology

The consultation paper already pointed out the limitations of the current performance scenario methodology. However, further testing of this methodology was important as a point of comparison and to identify precisely the most problematic issues and cases. In particular, these issues are considered to be procyclical effects and the risk of communicating misleading information to unsophisticated investors.

The main shortcomings of the current methodology are illustrated in Graph 2 below[18], which shows the results for the sample of investment funds:

- The performance scenarios "replicate" what happened during the last 5 years with an amplification factor (points (i) and (ii) in Graph 2). The presentation of the performance scenarios could therefore vary considerably depending on the state of the market at the time the KID is established or updated.

- During periods of bull or surging markets (point (ii) in Graph 2), the growth rate calculated using the last 5 years is high and is used as a starting point on which significant theoretical drifts[19] are added. This can lead to over-optimistic favourable and unfavourable scenarios:

    - The favourable scenarios can be higher than the highest historical return (point (ii) in Graph 2);

[18] Please also see table 3 below.

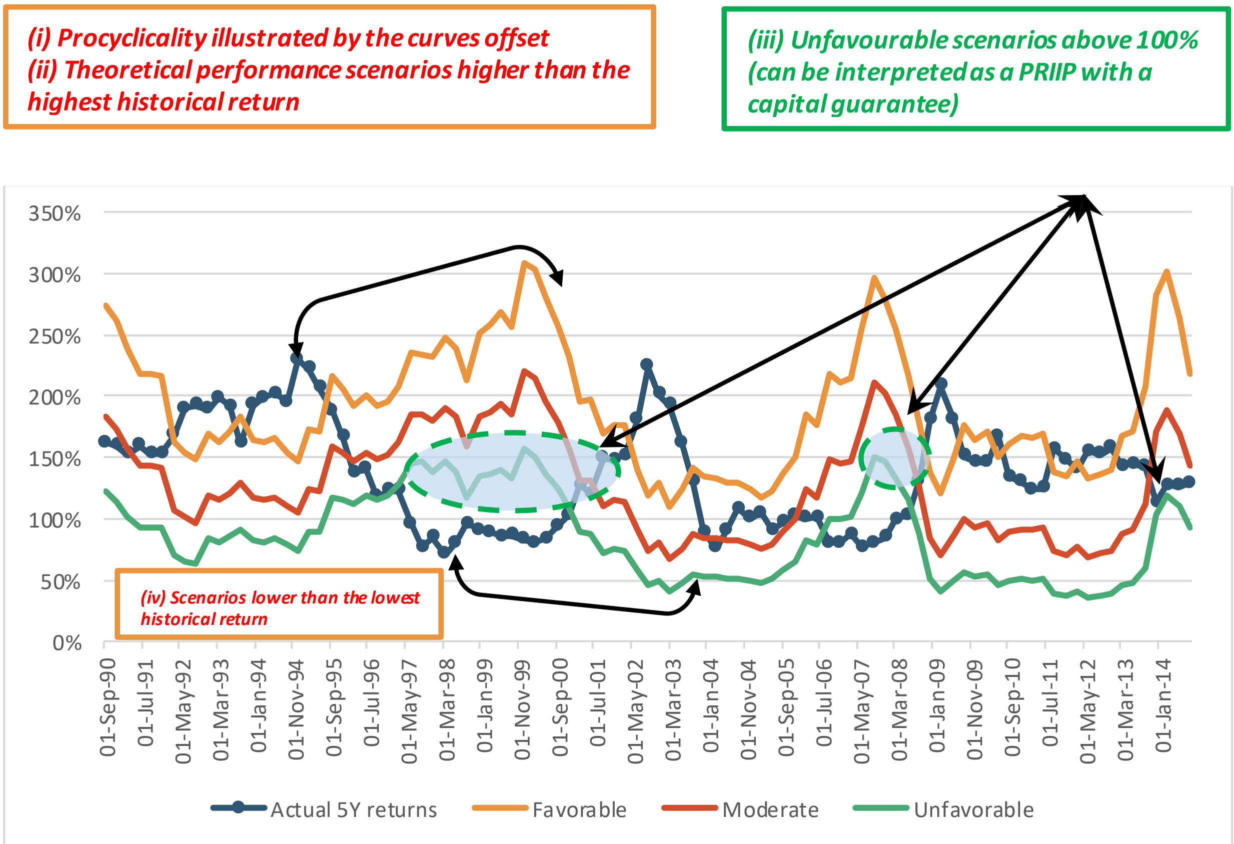
[19] These "theoretical drifts" are calculated using the formulas displayed in the PRIIPs Delegated Regulation (Annexes II and IV) and consist of theoretical probabilistic scenarios regarding the evolution of the PRIIP's value.

- The unfavourable scenarios can frequently show a potential return above 100%, suggesting that the capital is guaranteed (point (iii) in Graph 2), which can be seen as misleading. This is, in particular, the case when there is a market downturn. Due to procyclicality and lag effects, **unfavourable scenarios are at their highest level when markets are at their lowest level.**

- During periods of bear markets (point (i) in Graph 2), the same phenomenon is observed. The unfavourable scenarios are worse than the lowest historical returns (point (iv) in Graph 2).

- The current methodology is based on four theoretical probabilistic scenarios[20]. The level of actual returns ought to remain between the unfavourable and favourable scenarios 80% of the time. However, the testing demonstrated that this is not the case[21].

GRAPH 2: RISKS ARISING FROM PERFORMANCE SCENARIOS CALCULATED WITH THE CURRENT METHODOLOGY - ILLUSTRATION OF PROCYCLICALITY



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[20] Based on a statistical model, performance scenarios are defined as the 10th percentile for the unfavourable scenario, the 50th percentile for the moderate scenario, and the 90th percentile for the favourable scenario. A stress scenario is also shown using a different calculation method.

[21] See Table 3 below.

(ii) Core proposal in the consultation paper (reference rate plus risk premia)

Given these limitations of the current methodology, the consultation paper set out how the performance scenario methodology could be changed.

Sections 5.2 and 5.5 of the consultation paper described various tests that had been conducted during the development of the consultation paper on a proposed new methodology[22]. Following the issuance of the consultation paper, further testing of this methodology was conducted using a larger sample of PRIIPs. The evidence from this quantitative testing showed some improvements when using this methodology to estimate performance scenarios for structured products. However, the results were not conclusive for investment funds.

a) Results for structured deposits

The results for such deposits can be summarised as follows:

- In terms of the measured percentiles – overall the methodology proposed in the consultation paper, irrespective of the reference rate used[23], represented an improvement compared to the current methodology;
- In terms of the correlation with moderate scenarios specifically – actual performance correlates better with the moderate scenarios generated under the methodology proposed in the consultation paper, rather than the current one, if an asset specific reference rate is used.

b) Results for structured notes

The results for structured notes were broadly consistent with the results for structured deposits.

c) Results for investment funds

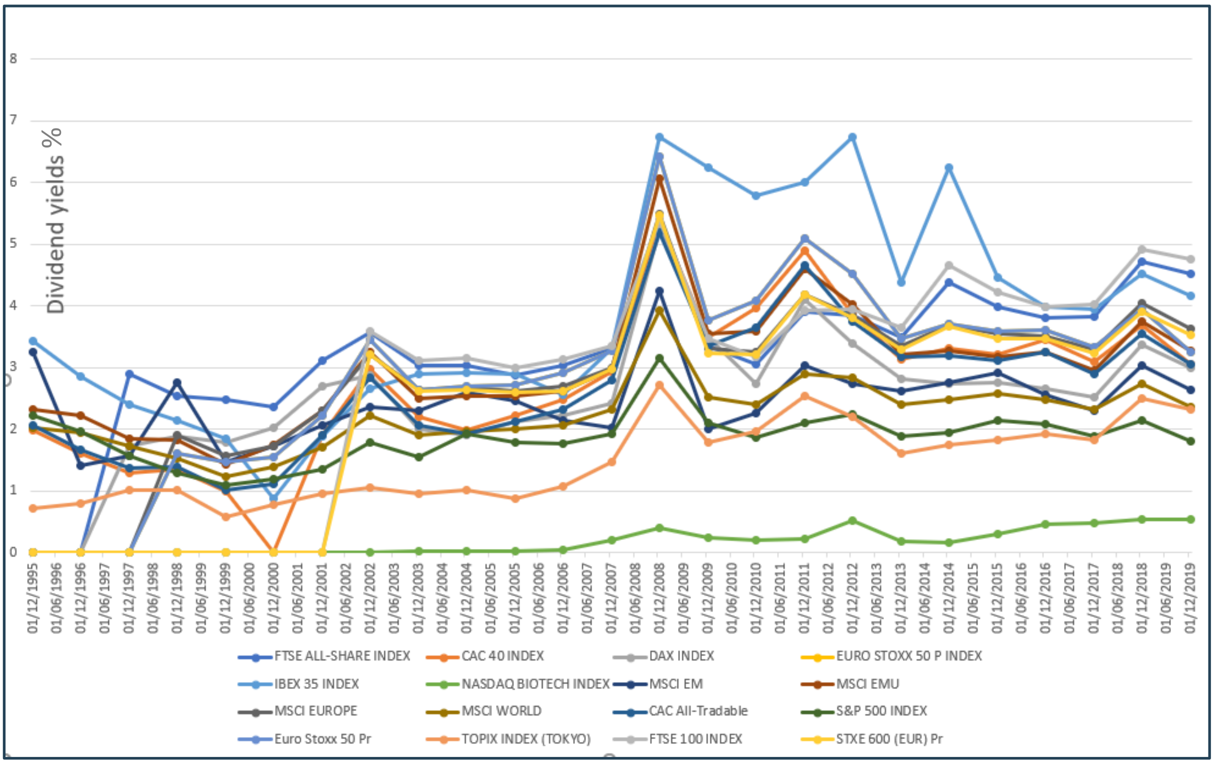
In relation to investment funds, the results were not satisfactory. While the methodology itself seemed to partially correct the procyclicality observed with the current approach in the PRIIPs Delegated Regulation, several limitations were identified:

- Difficulties to access the data such as past dividend yields, past composition of the fund, and past yield to maturity;
- Issues regarding the reliability of the data;
- Only a partial correction of procyclicality was observed since dividend yields, reference rates and yield to maturity depend on economic cycles (please see Graph 3 below).

[22] See Section 5.4 of the consultation paper. For example, in respect of equity based products, this methodology consists in setting the growth rate equal to a reference rate in the case of structured products, and equal to a reference rate plus a dividend yield in the case of funds.

[23] The two options tested were an asset specific reference rate or the reference rate of the currency of the deposit

Graph 3: Dividend yields of a set of indices



(iii) Other alternative methodologies

In the consultation paper, the ESAs acknowledged that better alternatives to the core proposal could still be envisaged, in particular more simplified approaches, and discussed some of the alternative possibilities (see Sections 5.6 and 5.7 of the consultation paper). In this context, in parallel to the further testing of the core proposal in the consultation paper, and in particular once this testing indicated challenges to apply this methodology to investment funds, other alternative methodologies were considered and tested.

This included the use of "caps on the growth rate" (Section 5.6 of the consultation paper) and the use of an approach based on prescribed growth rates per asset class (Section 5.7 of the consultation paper), as well as several other alternatives for more simplified approaches compared to the core proposal in the consultation paper. The possibility to combine different methodologies was also considered.

The different approaches were tested first on a set of indices and, when this first step with indices produced conclusive results, then on the sample of 775[24] funds, with the performance scenarios calculated on a quarterly basis from September 1990 to September 2014 and then compared to the actual performance over this period. Using indices as a preliminary step was considered a good way

[24] Every trimester was tested from September 1990 to September 2014 (for instance, the 5 year scenarios estimated with the data available in September 2014 are compared to the actual performance of the fund 5 years later in September 2019).

to test the methodology without the testing results being biased by the introduction of changes in the fund portfolio allocation.

These different approaches are summarised in Table 1 below.

TABLE 1: ALTERNATIVE METHODOLOGIES TESTED

Methodology	Calculation approach to estimate growth rate (instead of mean observed returns)	Possible implementation
a) Approach described in Section 5.7 of the consultation paper (growth rate calculated by asset class)	Calculation based on table of growth rates set by asset class. Different variants for the definition of the asset classes were considered.	As mentioned in the consultation paper, either the ESAs could jointly set and review these rates, or an external independent body could be given responsibility for doing so. These rates would then be applied directly by the PRIIP manufacturer when calculating the performance scenarios.
b) Model based on relevant benchmarks	Calculation based on the benchmark average performance over a sufficiently long period of time, for example the past 20 years	Calculation made by the asset manager with guidance on the way to select the benchmark
c) Direct estimate of performance scenarios from PRIIP price history or relevant benchmark (no model)	Estimated growth rate not used as part of model. Percentiles for performance scenarios taken directly from using actual price history of PRIIP or benchmark. If the PRIIP does not have sufficient historical prices, its historical data could be supplemented by a benchmark.	Calculation made by the asset manager with guidance on the way to select the benchmark for PRIIPs with shorter historical data

a) Prescribed growth rates per asset class (Section 5.7 of the consultation paper)

The consultation paper outlined how this approach could be defined, but at that stage did not fully specify all the necessary elements.

The ESAs considered that the most relevant and practical way to implement this approach would be to use these prescribed growth rates to change the estimator of the growth rate in the current PRIIPs Delegated Regulation. This would mean that the observed historic growth of the asset would no longer be used, but similar to the core proposal in the consultation paper, the other parameters in the existing Delegated Regulation could remain unchanged.

In terms of the calculation of these rates, in the consultation paper it was suggested that the growth rates could be based on an analysis of data on long-term European returns (e.g. from the last 40 years). It was also mentioned that either the ESAs could set and review these rates, or an external independent body could be given responsibility for doing so. For the purposes of testing this type of methodology, the ESAs extracted the list of all European funds from data providers (Bloomberg, Lipper or datastream) with their classification and benchmarks. Indices were selected among the benchmarks that appeared most frequently for a given asset class and the long-term average returns of these indices were calculated.

There were still several additional aspects to consider regarding the application of such a growth rate. One key issue was the choice of more or less granular asset classes; as well as the option of using broad asset classes as indicated in the example in the consultation paper[25] (e.g. equities, property, bonds, cash and hybrid / complex), the ESAs also considered a more granular division such as shown in the following Table 2.

TABLE 2: LIST OF ASSET CLASSES

Type of asset class or fund type[26] (*)
Equity large cap
Equity small and mid-caps
Investment Grade Bonds
High Yield Bonds
Sovereign Bonds
Convertible Bonds
Money Market funds
Foreign Exchange
Commodities

Second, with respect to the calculation approach, the following variants were considered:

- Classification of the PRIIP into an asset class and use of the growth rate for that asset class. Mixed asset funds were tested using a mixed growth rate according to their composition.

- Use of the actual or projected composition of the PRIIP and a combination of different growth rates used. For example, if a fund is composed of (or if the fund's strategy is to invest in) 50% of equity large cap and 50% of sovereign bonds, the growth rate would be estimated as a weighted average of these two asset classes.

Overall, the testing showed several clear limitations to using this type of approach of prescribed growth rates per asset class. These limitations were also indicated by respondents to the consultation paper:

- The model: the approach as envisaged would use the same formula as the current methodology in the PRIIPs Delegated Regulation. Hence, several limitations identified regarding the current methodology remained during the testing: i) the model´s inability to take into account the evolution of asset allocation over time, ii) the inappropriateness of the

[25] See page 27 of the consultation paper

[26] Other variants could of course be envisaged e.g. to differentiate by geographical zones or more granular ratings.

use of the log-normal modelisation[27] over a long period of time, and iii) the procyclical nature of the volatility (see example in Graph 5 below).

- Additional inconsistencies: the approach as envisaged would mix in its formula a generic growth rate by asset class with the PRIIP's own volatility[28], which per se is an issue since it could lead to inconsistencies given that past data show links between volatility and the growth rate (i.e. (i) a higher volatility means usually higher risks and higher returns, which is disregarded in the case that the growth rate is constant within an asset class, and (ii) the volatility usually depends on the market situation (bear markets/bull markets, for instance)).

- The definitions of asset classes: during the quantitative testing conducted, it was difficult to define an appropriate, coherent and sufficiently granular set of asset classes since equities[29], bonds[30], commodities, fixed income products, etc. are defined by a wide range of characteristics. A PRIIP can invest in a broad range of assets therefore mixing these characteristics. Moreover, PRIIPs can put in place different strategies regarding their composition, their leverage, the currency mix, the type of exposure (long and/or short), the arbitrage between asset classes/assets, for instance. All this diversity results in challenges to apply a "one size fits all" approach as implied by this type of methodology. Even PRIIPs that belong to the same asset class do not share the same growth rate (see Graph 4 below).

- Calculation of growth rate by asset class: this calculation depends to a large extent on the period of time over which the estimation is made and the indices used to represent the asset class. Moreover, estimating the growth rate over a long term period where the recommended holding period is shorter can be misleading (see Graph 5 below). Whether the calculation of growth rates by asset class would be conducted by the ESAs, or would be outsourced to third parties, these issues still remain.

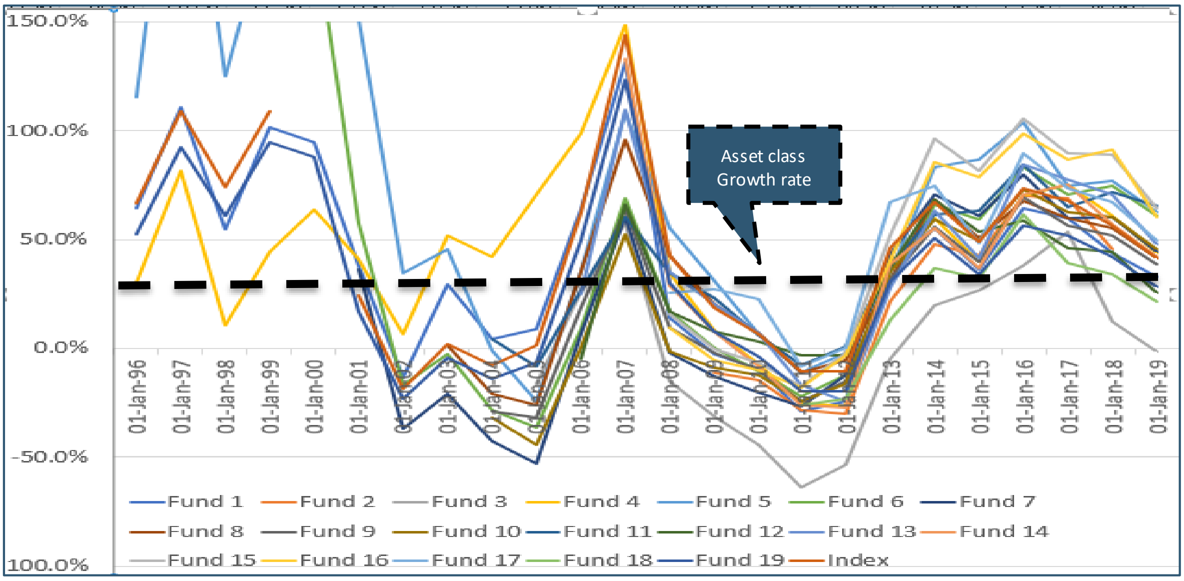
[27] This log normal model can be used in a conservative way to compute worst case or stress case scenarios. However, when it comes to the calculation of moderate and favourable scenarios, the use of this model can over-estimate the returns and raise undue expectations from retail investors.

[28] Similar to the core methodology, the ESAs considered to not change most of the other parameters from the existing methodology (e.g. variance, skew and excess kurtosis of the return distribution).

[29] Some examples of the different characteristics for equity based products are: small, mid or large caps, developed or emerging market countries, sectoral funds, geographical funds, leveraged equity funds etc.

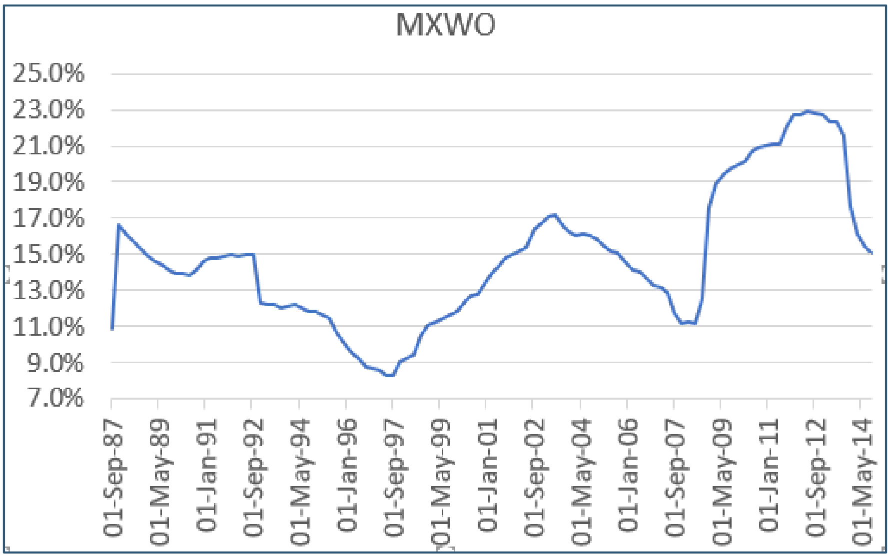
[30] Some examples of the different characteristics for bond based products are: corporate, sovereign, size of the issuer or issue, rating, duration, countries (domiciled or activity), convertible bonds, covered bonds, etc.

GRAPH 4: EXAMPLE OF 5 YEAR GROWTH RATES OF 19 HOMOGENEOUS FUNDS AND THE LONG TERM GROWTH RATE



The 5 year growth rates of the sample of funds ranges from -50% to 300% (the y axis is only shown up to 150% in the graph above). The long term average 5 year growth rate is 29% (dashed line on the graph).

GRAPH 5: MSCI VOLATILITY



The volatility is also procyclical as shown in the graph above.

b) Use of a benchmark to estimate a long-term growth rate

This alternative was considered as a potential way to address one of the major drawbacks of the approach of simply prescribing growth rates per asset class - the "one-size fits all" type approach that makes it challenging to differentiate between PRIIPs.

In terms of practical implementation it was considered that the PRIIP manufacturer would have to use the PRIIP's benchmark if one exists or otherwise justify their choice of an alternative benchmark.

While this option provided more precise results than the methodology described in the previous section (a), it still raises significant issues, including that:

- the benchmark performance may differ slightly from that of the PRIIP;
- the composition of the PRIIP could change over time;
- it would be difficult to implement for leveraged PRIIPs.

c) Proposed new methodology for fund-type PRIIPs (direct estimate)

This alternative was considered as a way to additionally address some of the shortcoming identified with the approach described in section (a), such as regarding the use of the existing log-normal model.

The rationale is that for PRIIPs which have historical price data going back at least 10 years or five years more than the recommended holding period and no change in their investment strategy, a more direct estimate of the scenarios is appropriate that is based on the PRIIP's prices. For example, in this case the favourable, moderate and unfavourable scenarios would be the best, average and worst returns recorded, covering the last 10 years at least. In other cases, the scenarios could be derived by supplementing the historical data with the performance of relevant benchmarks.

The estimation of the unfavourable scenario over the recommended holding period (e.g 5 years) would also take into account "unrealised losses" or "potential losses" at the end of the time window over which this scenario is estimated (e.g. losses over shorter periods than 5 years). For instance, for a time window 2010-2020, if a PRIIP dropped by 30% in 2020, the proposed methodology takes into account this unrealised or potential loss in a prudent manner and without delay. This loss is only "potential" since the market may increase between 2020 and the end 2024, i.e. during the future 5-year recommended holding period. However, this conservative approach aims at not delaying the inclusion of risks into the estimation of the unfavourable scenario. Indeed, in case of losses, investors may decide to exit the PRIIP prior to the recommended holding period.

(iv) Comparison of backtesting results between the current methodology and the proposed new methodology

a) Current methodology

This backtesting consisted in applying a methodology in the past and seeing how accurately it predicted the actual return. For instance, 1 year performance scenarios as of 31 March 2019 were compared with actual performance 1 year later (i.e. the return calculated from March 2019 to March 2020).

Table 3 - Backtesting of the current methodology in the PRIIPs Delegated Regulation

5 year performance scenarios	Sample of 775 funds (*)	Sample of 15 indices (**)
% of cases where the actual return is below the unfavourable Scenario	20.1%	23.0%
% of cases where the actual return is below the moderate scenario	40.6%	42.5%
% of cases where the actual return is above the favourable scenario	29.0%	28.8%

(*) Test of 5 year returns estimated between September 2000 and September 2019 (data ranging from September 1990 to September 2019, 36,468 trimesters tested)
(**) Test of 5 year returns estimated between September 1995 and September 2019 (data ranging from September 1985 to September 2019, 1,370 trimesters tested)

The frequency with which the actual returns exceed the favourable or unfavourable scenarios are well above 20%, although the model used predicts this frequency should be 10%.

b) *Proposed new methodology for fund-type PRIIPs (direct estimate)*

Table 4 - Backtesting of the proposed new methodology

5 year performance scenarios	Sample of 65 funds (*)	Sample of 15 indices **
% of cases where the actual return is below the unfavourable scenario	8.1%	10.0%
% of cases where the actual return is below the moderate scenario	52.3%	57.8%
% of cases where the actual return is above the favourable scenario	10.7%	8.2%

(*) The size of the sample of funds was reduced to funds that had enough historical data (minimum 10 years) to perform the test. Test of 5 year returns estimated between September 2004 and September 2019 (data ranging from September 1989 to September 2019, 2,461 trimesters tested)
(**) Test of 5 year returns estimated between September 2004 and September 2019 (data ranging from September 1994 to September 2019, 819 trimesters tested)

The frequency with which the actual returns exceed the favourable or unfavourable scenarios are very close to 10% or below. The risks are not underestimated.

(v) Further testing during finalisation of the ESAs’ proposals taking into account Covid-19 crisis period

The following tests were performed to check how the current and proposed new methodologies performed in the context of the crisis resulting from the Covid-19 pandemic:

a) Back testing of current and revised methodologies focusing on recent market developments;
b) Estimation of performance scenarios using the current and revised methodologies taking into account March and April 2020 market data; and
c) Back testing of the revised methodology including the stress scenario over a longer time period.

a) Results of backtesting of recent market developments (March and April 2020)

Below is presented this backtesting of the 1 year and 5 year performance scenarios estimated under the current methodology described in the PRIIPs Delegated Regulation and estimated through the revised performance scenario methodology using the MSCI World index.

Under the methodology in the current Delegated Regulation (Table 5 and Graphs 6 and 7 below), given the procyclicality effect, some flaws appear:

- The unfavourable 5 year scenario is 90% or above which means that limited losses were predicted under the unfavourable scenario. In other words, if this scenario had been displayed in a PRIIPs KID, the retail investor would have been misled as to the possibility of loss. It should be noted that this case occurred during other market crises as shown in the Graphs 6 and 7 below.
- The 1 year unfavourable scenario overestimates the actual return during the market crisis in March 2020 (the 1 year actual return as of 23 March 2020 was 76% while the unfavourable scenario 1 year before predicted 90%).

Under the new methodology for funds-type PRIIPs (Table 6 and Graphs 8 and 9 below), neither of these two flaws appeared in March 2020.

TABLE 5: BACKTESTING OF RECENT EVENTS ON MSCI WORLD INDEX – PERFORMANCE SCENARIOS UNDER THE CURRENT METHODOLOGY IN THE PRIIPS DELEGATED REGULATION

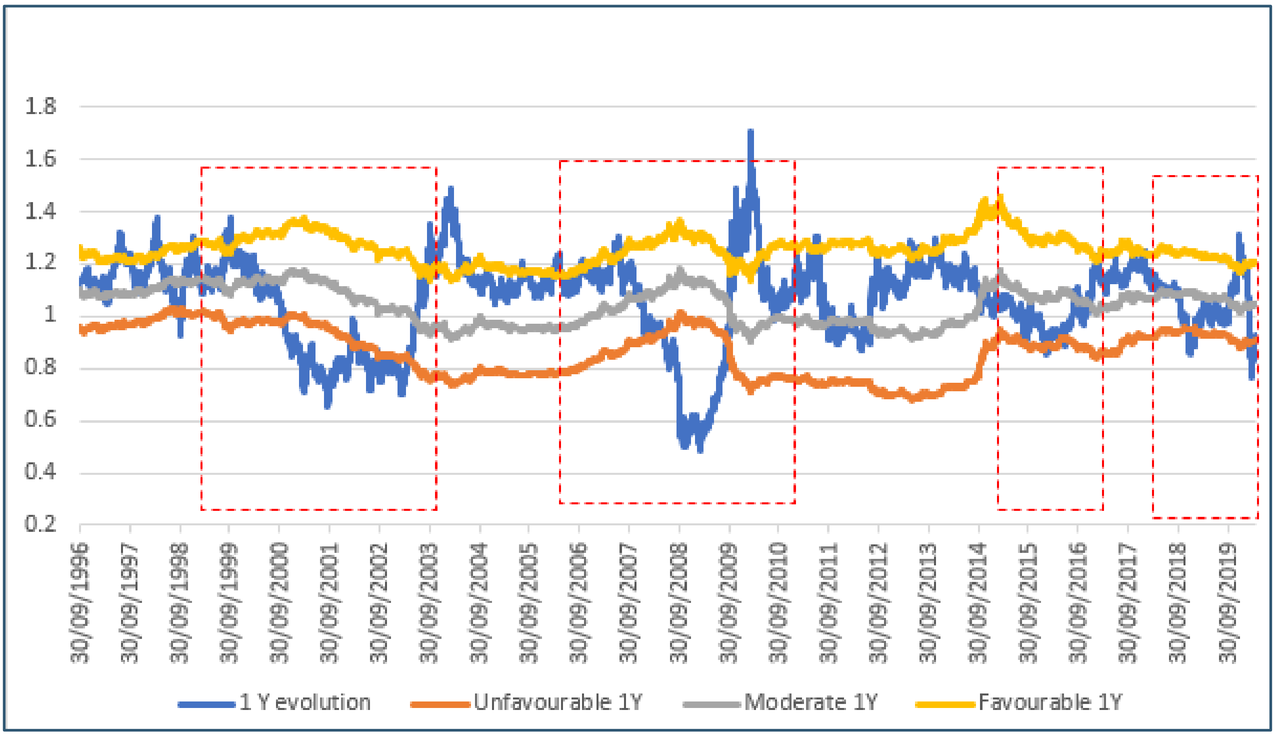
Date tested	Actual 1 year evolution	Performance scenario predicted 1 year before			Actual 5 year evolution	Performance scenario predicted 5 years before		
		Unfavourable 1Y	Moderate 1Y	Favourable 1Y		Unfavourable 5Y	Moderate 5Y	Favourable 5Y
14 April 2020	93%	91%	105%	121%	113%	90%	137%	209%
31 March 2020	87%	90%	105%	121%	106%	90%	137%	209%

23 March 2020	76%	90%	104%	120%	90%	93%	141%	215%

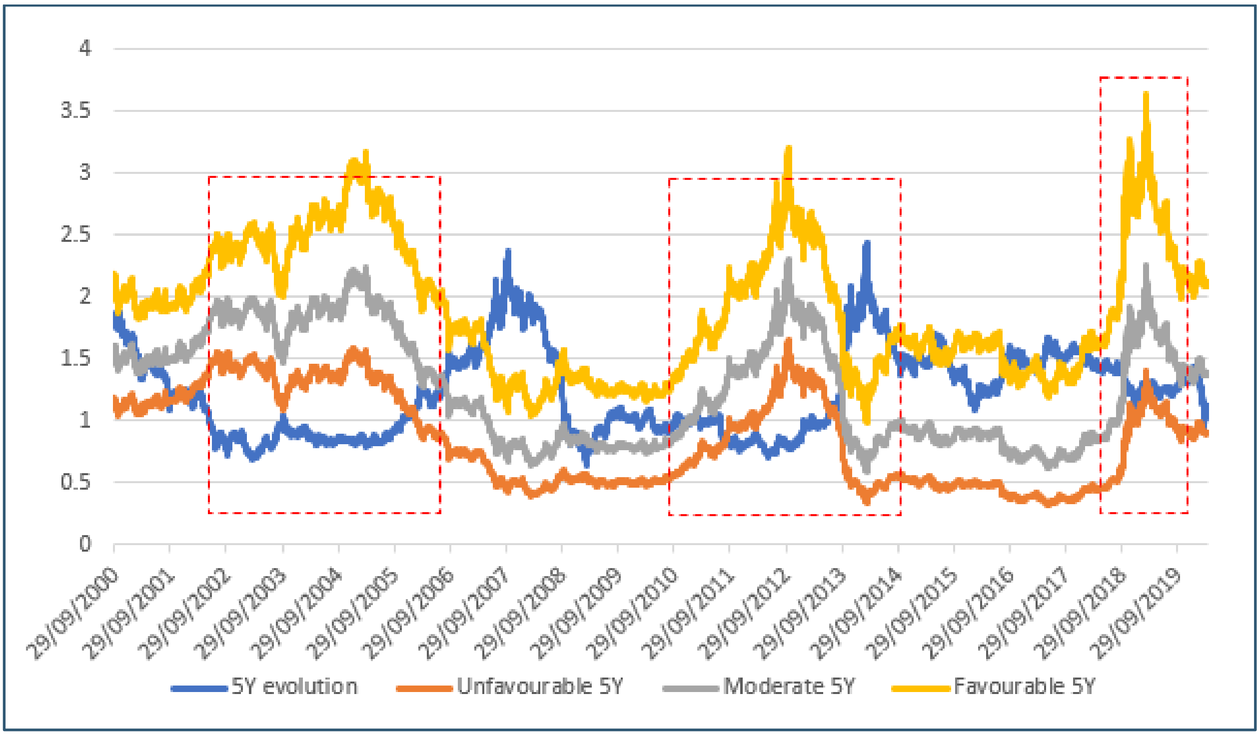
Table 6: Backtesting of recent events on MSCI world index – performance scenarios under the revised methodology

Date tested	Actual 1 year evolution	Performance scenario predicted 1 year before			Actual 5 year evolution	Performance scenario predicted 5 years before		
		Unfavourable 1Y	Moderate 1Y	Favourable 1Y		Unfavourable 5Y	Moderate 5Y	Favourable 5Y
14 April 2020	93%	85%	108%	145%	113%	71%	117%	243%
31 March 2020	87%	85%	108%	149%	106%	71%	116%	243%
23 March 2020	76%	85%	108%	152%	90%	71%	116%	243%

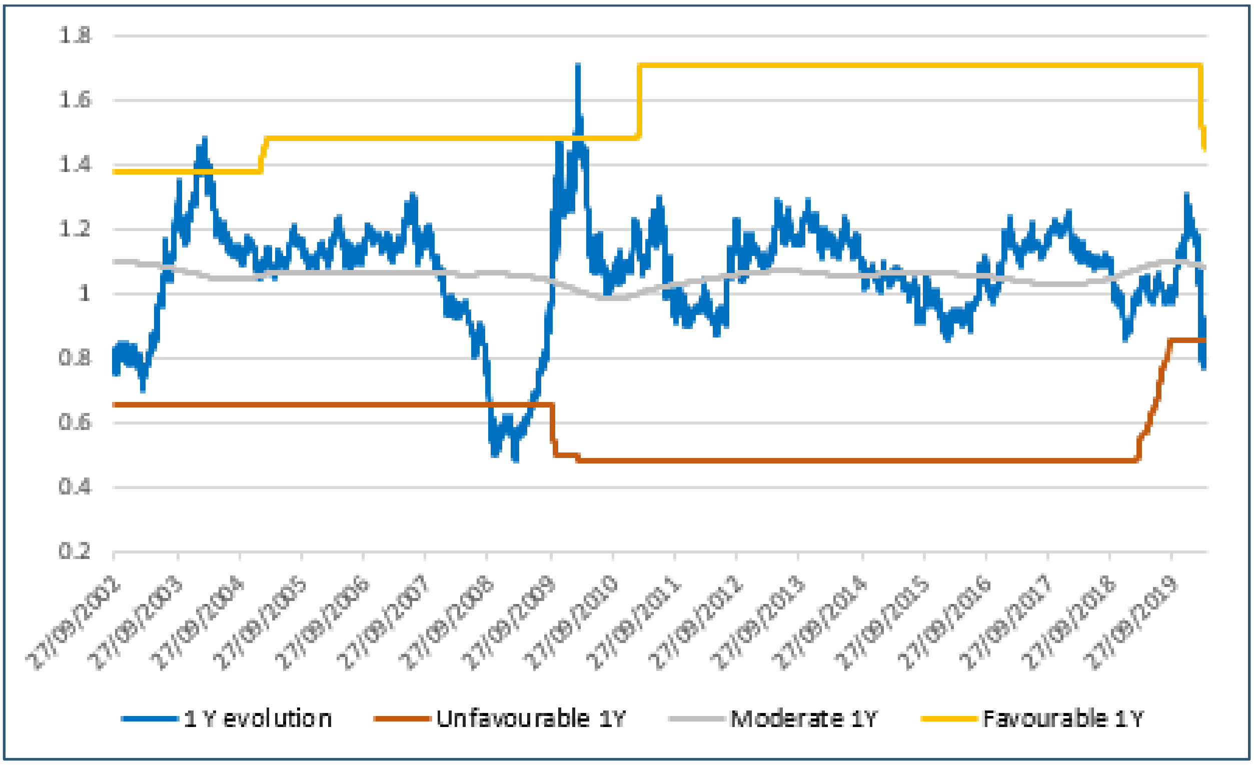
Graph 6: Backtesting of 1 year evolution of the MSCI World index compared with the performance scenarios under the current methodology



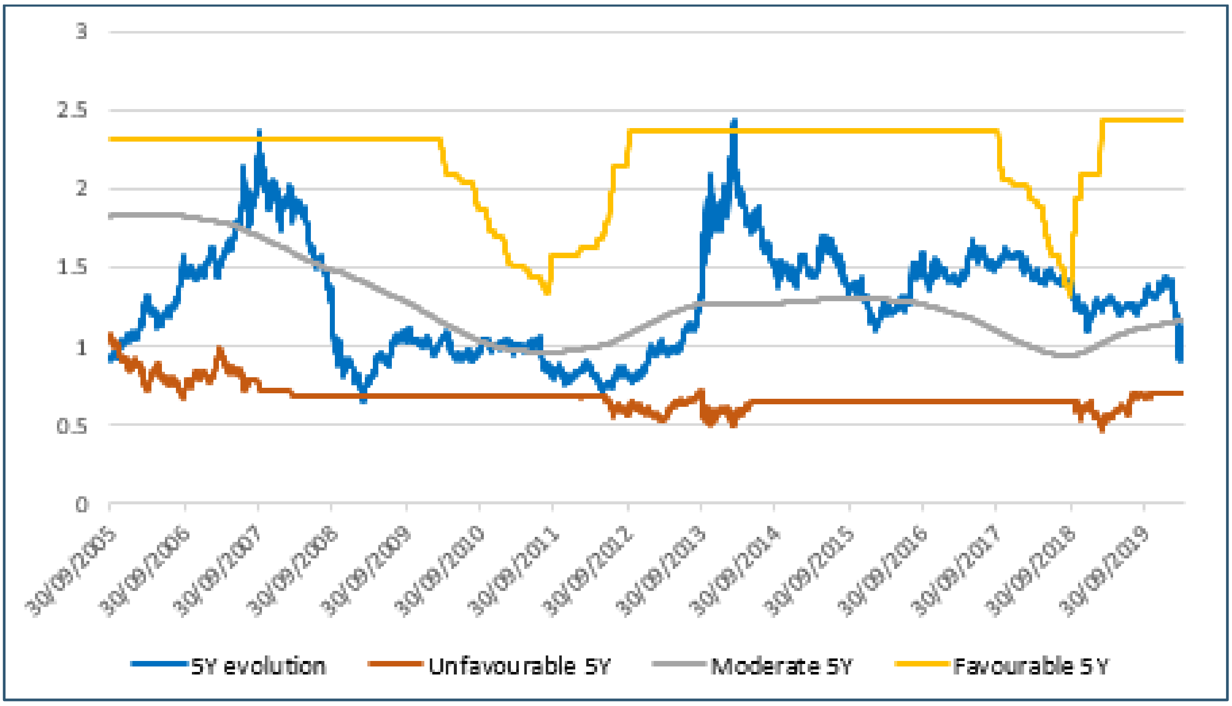
GRAPH 7: BACKTESTING OF 5 YEAR EVOLUTION OF THE MSCI WORLD INDEX COMPARED WITH THE PERFORMANCE SCENARIOS UNDER THE CURRENT METHODOLOGY



GRAPH 8: BACKTESTING OF 1 YEAR EVOLUTION OF THE MSCI WORLD INDEX COMPARED WITH THE PERFORMANCE SCENARIOS UNDER THE REVISED METHODOLOGY



Graph 9: Backtesting of 5 year evolution of the MSCI World index compared with the performance scenarios under the revised methodology



b) ***Estimation of performance scenarios taking into account current market data***

The characteristic of the performance scenarios estimated using the current formula in the PRIIPs Delegated Regulation is that they are highly volatile over short periods of time and provide very different results depending on the calculation date. In comparison, the variation of the 1 year and 5 year scenarios are less pronounced in the revised methodology (Table 8).

Table 7: Performance scenarios estimated using the most recent data under the current methodology in the PRIIPs Delegated Regulation

Date	Unfavourable 1Y	Moderate 1Y	Favourable 1Y	Unfavourable 5Y	Moderate 5Y	Favourable 5Y
14 April 2020	83%	102%	124%	68%	107%	167%
31 March 2020	82%	100%	121%	64%	100%	154%
23 March 2020	80%	97%	116%	56%	86%	130%

TABLE 8: PERFORMANCE SCENARIOS ESTIMATED USING THE MOST RECENT DATA UNDER THE REVISED METHODOLOGY

Date	Unfavourable 1Y	Moderate 1Y	Favourable 1Y	Unfavourable 5Y	Moderate 5Y	Favourable 5Y
14 April 2020	76%	107%	131%	90%	139%	170%
31 March 2020	76%	107%	131%	89%	139%	170%
23 March 2020	76%	107%	131%	76%	139%	170%

c) Results of backtesting using additional indices, including stress scenario within the revised methodology

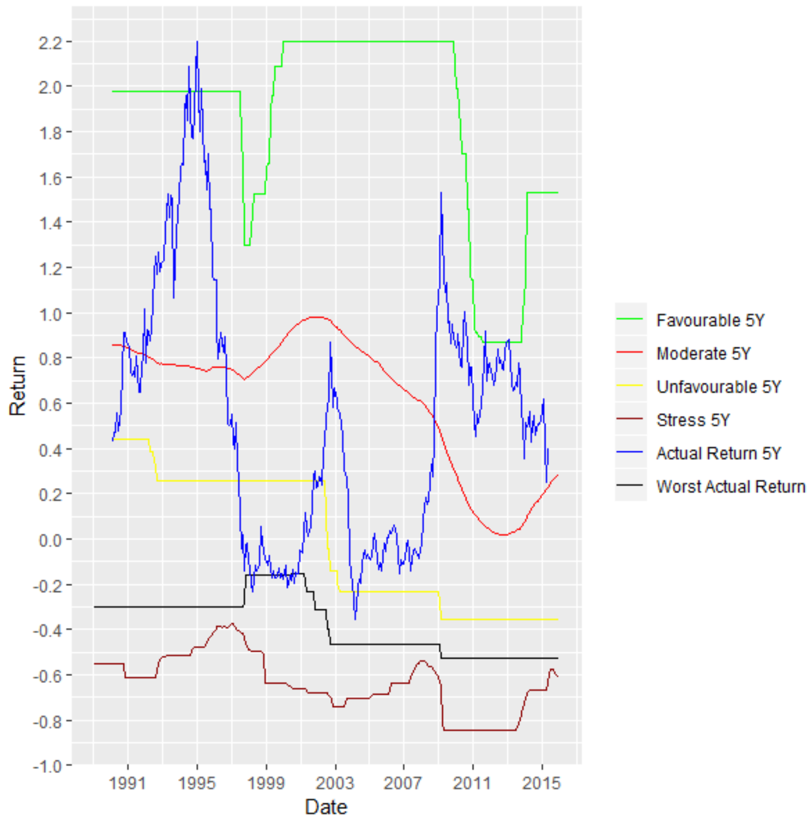
Further backtesting of the revised methodology was also conducted against a number of major indices and including the stress scenario together with the revised favourable, moderate and unfavourable scenarios. Although it is not proposed to change the stress scenario, in the current market context it was relevant to assess the effectiveness of this scenario, in particular to indicate the impact of possible severe market events. It was also relevant to assess how the stress scenario related to the other performance scenarios under the proposed revised methodology.

The results showed that for 5 year returns, while on occasion the unfavourable scenario (using the proposed new methodology) is breached, the stress scenario is not breached. Given that certain retail investors may exit their investment early, in particular in stressed market conditions, the testing also considered how the projected 5 year stress scenario compared to the overall worse return during the period based on a minimum holding period of a month. This showed that the stress scenario (assuming a 5 year holding period) was only breached on a very limited number of occasions. These findings are considered to confirm the relevance of retaining the stress scenario using the methodology in the current PRIIPs Delegated Regulation.

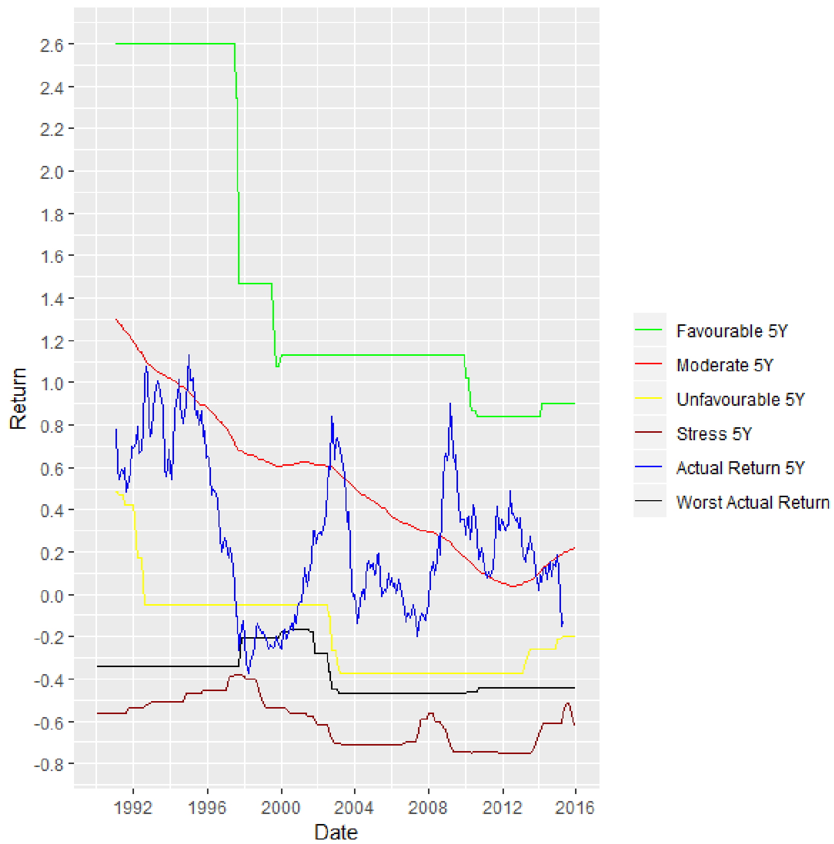
In terms of how the stress scenario relates to the other performance scenarios, it can be noted that while the stress scenario always remains below the unfavourable, at certain points in time, the scenarios are relatively close to one another. Taking this into account, the ESAs have included a specification in the RTS to avoid the case that the unfavourable scenario would exceed the stress scenario.

Graphs are included below showing the results of this backtesting for the S&P 500 index, FTSE All share index, AEX index, Hang Seng index and MSCI World index.

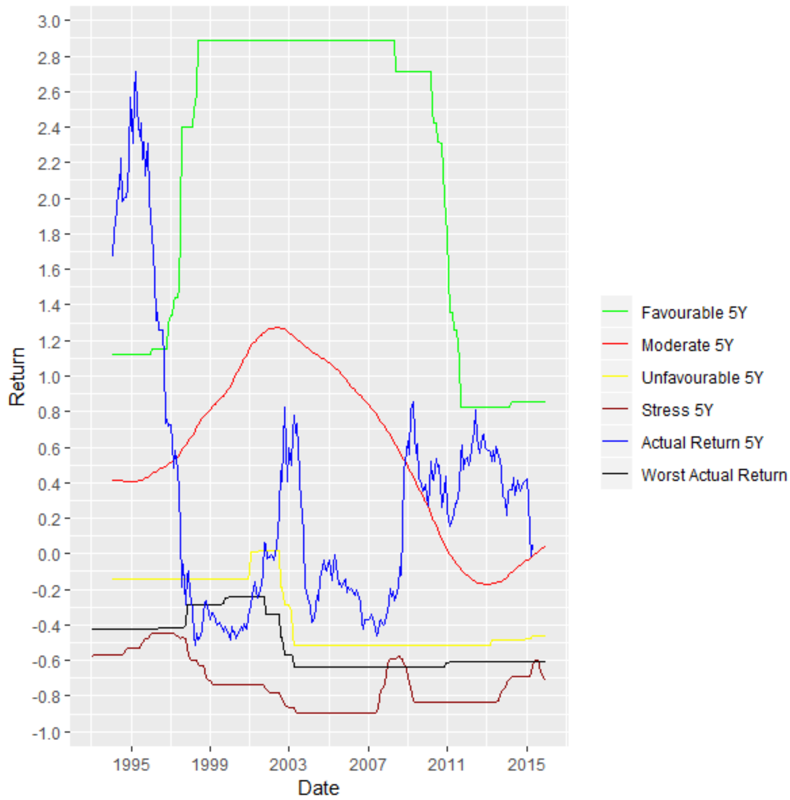
GRAPH 10: BACKTESTING OF REVISED METHODOLOGY USING S&P 500 INDEX



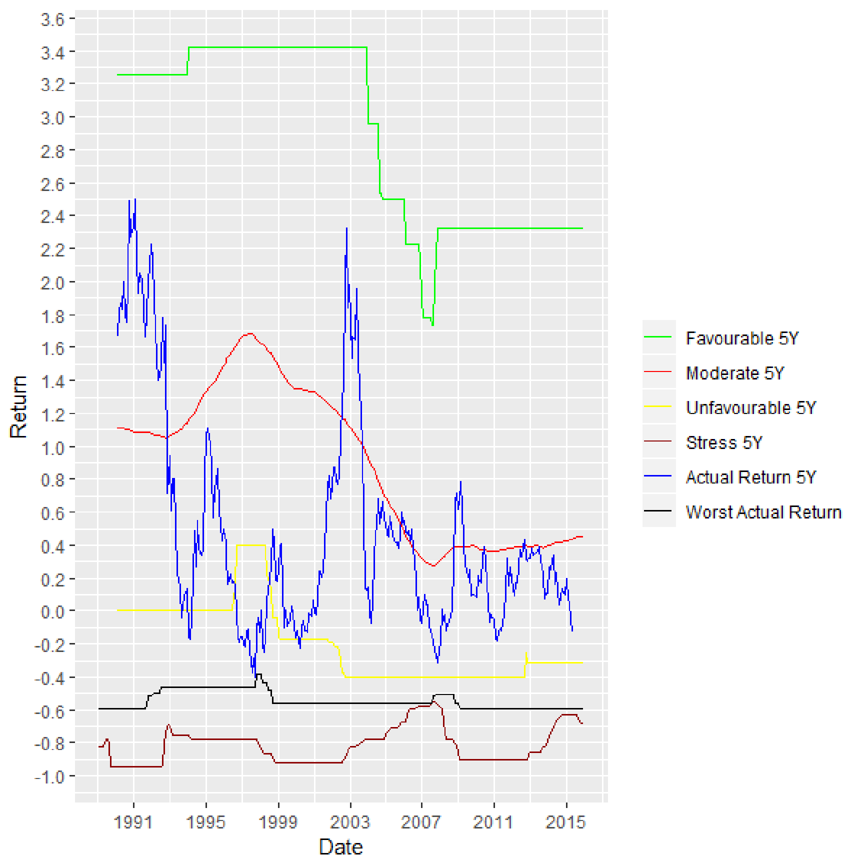
GRAPH 11: BACKTESTING OF REVISED METHODOLOGY USING FTSE ALL SHARE INDEX



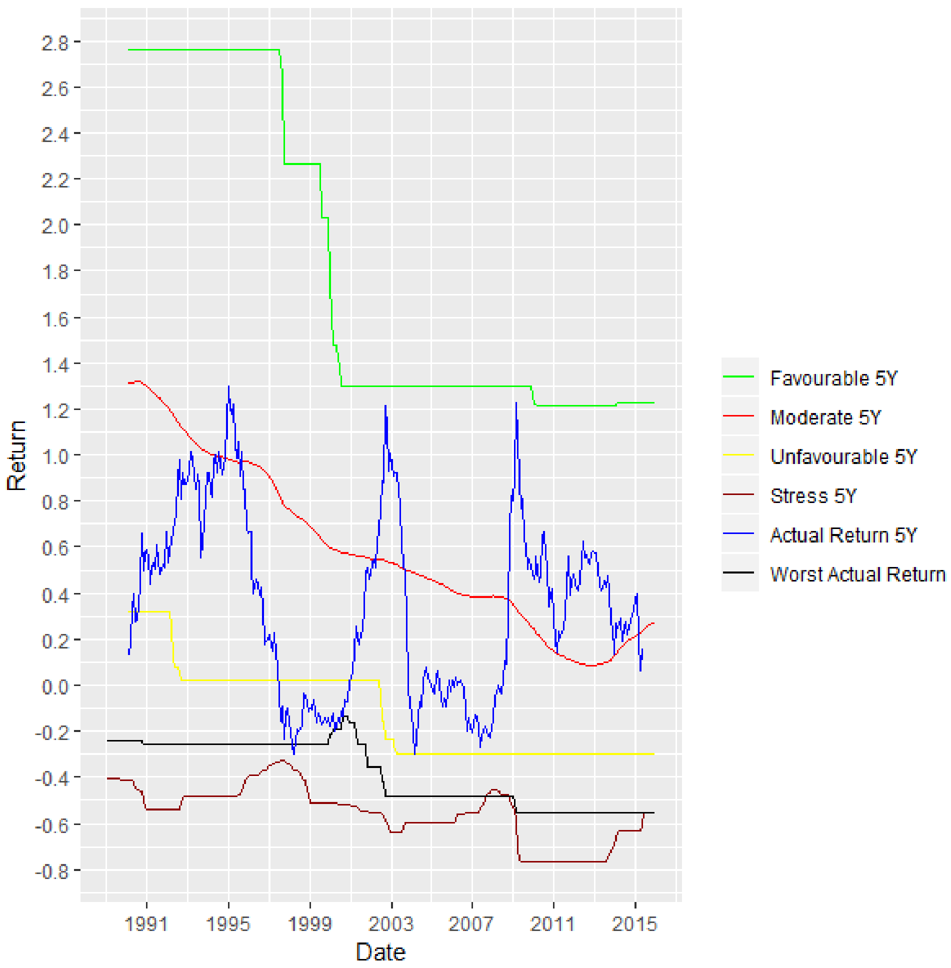
GRAPH 12: BACKTESTING OF REVISED METHODOLOGY USING AEX INDEX



GRAPH 13: BACKTESTING OF REVISED METHODOLOGY USING HANG SENG INDEX



GRAPH 14: BACKTESTING OF REVISED METHODOLOGY USING MSCI WORLD INDEX



4.3.4 Way forward regarding performance scenario methodology

When judging the appropriate way forward the ESAs took into account the following main aspects:

- Ensuring that the information is clear and understandable, and minimising any risk that the information is misleading is of paramount importance;

- The importance of any proposals being justifiable technically in terms of providing a fair and meaningful basis for comparison between different PRIIPs;

- As is currently the case in the PRIIPs Delegated Regulation, it can be justified to apply different underlying methodologies to calculate the performance scenarios for different types of PRIIPs, given the range of products within the scope of the Regulation[31]. However, wherever possible the information should be presented in broadly similar terms;[32]

- The limitations of the current methodology (as described in Section 4.3.3) are most pronounced for non-structured investment funds and other types of linear PRIIPs given the direct link between the performance of the underlying investments and the performance of the product. A change to the current methodology is considered to be critical in respect of these products;

- For those PRIIPs that are within the scope of the Regulation and are currently preparing KIDs, it is necessary to identify a methodology that is clearly better (based on the supporting evidence) than the existing methodology in order to justify the significant implementation costs. In respect of Category 3 PRIIPs, i.e. those with an element of structuring or optionality, such as structured notes or structured deposits, while the current methodology has material drawbacks, these are not as severe as for non-structured products.

Taking this into account, for investment funds (UCITS and AIFs, except structured UCITS and structured AIFs) and other Category 2 PRIIPs, such as unit-linked insurance-based investment products, the ESAs propose a new methodology with the following main elements:

- To not use a "model" and instead present performance scenarios (unfavourable, moderate, favourable) showing a range of future outcomes that are a more direct estimate from a distribution of past returns of the PRIIP (or a relevant benchmark[33]), at different points in time in the past. The best, average and worst performances would be shown under certain parameters.

- A minimum 10 year data period would underlie these scenarios (at least five more than the recommended holding period) to try to capture both positive and negative periods of growth;

- To retain the stress scenario using the methodology in the current PRIIPs Delegated Regulation, which, taking into account the recent market impact of the Covid-19 pandemic, has proven to be a relevant indicator of very adverse market events;

- In terms of the figures shown, this revised approach would address the issues of the current methodology in terms of procyclicality, the "amplification factor" (e.g. favourable scenarios above levels ever achieved), and moderate scenarios that can be seen as over-optimistic.

In relation to other PRIIPs, the ESAs propose to keep the existing approach, including the stress scenario, but to introduce a specific adjustment to reduce the risk that retail investors are provided with inappropriate expectations about the possible returns they may receive. This adjustment is to provide PRIIP manufacturers with the option to use lower percentiles of the estimated distribution of future returns used to generate the scenarios (i.e. to provide more conservative results). This should

[31] The existing PRIIPs Delegated Regulation already specifies different calculation methodologies based on whether a PRIIP falls within one of four different Categories.

[32] The majority of PRIIPs currently present performance scenarios using the same basic template (e.g. with specific differences depending on the length of the recommended holding period, whether or not it is an insurance-based investment product, and whether or not it is a single or regular investment or premium product). The only exception to this is certain derivatives which use a "pay-off graph".

[33] If there is not sufficient historical data for the PRIIP itself.

only be done in justified cases, where the PRIIP manufacturer considers there is a material risk that the scenarios, as prescribed, may lead to inappropriate expectations.

Taken together with the changes to the presentation of performance scenarios, in particular a more prominent warning to retail investors about the limitations of the figures, these changes should reduce the risk that the scenarios generate inappropriate expectations.

4.4 Approach to present performance scenarios

As well as the feedback from the public consultation, the other significant element when finalising the proposals concerned the findings from the consumer testing study. As mentioned above in Section 3, the main findings from the consumer testing concerning the presentation of the performance scenarios are considered to be that:

- Participants of the consumer testing study generally made good investment decisions irrespective of the version of the performance scenario table presented to them. This is considered to indicate that it may not be necessary to substantially change the current presentation, provided that appropriate figures are shown;

- A revised version of the performance scenario table (referred to as the "probabilistic approach" in the consumer testing study) showed some improvements compared to the current table in terms of the understanding of relevant product features by participants. However, these improvements were not always material and the merits of the specific changes tested are discussed below.

A first issue concerns the potential inclusion of information on the estimated likelihood of the different scenarios. As one would expect, the inclusion of explicit information in the performance scenario table resulted in an increase in the number of participants of the consumer testing that seemed to understand the estimated likelihoods of the different scenarios, compared to the current performance scenario table where such information is not included. However, since there was still only a very low level of understanding of this information by participants of the consumer testing, this indicates there would only be, at best, a marginal benefit to including such information in the table. In terms of the feedback from respondents to the consultation paper, where an opinion was offered, it was not to show the information on the estimated likelihood of the different scenarios on the basis that it may mislead or confuse the investor. Therefore, there is not considered to be a justification for including this information, given also the drawbacks of doing so identified by some respondents to the public consultation.

A second aspect is the use of intermediate performance scenarios (future scenarios for periods shorter than the recommended holding period). This was the most commented on presentation issue by respondents to the consultation paper, with the majority preferring not to include these scenarios. In general terms, the consumer testing showed that there can be an improved level of understanding of relevant product features when using a version of the performance scenarios with fewer scenarios. However, the findings relating specifically to the understanding by participants of the implications of ending an investment before the recommended holding period were not conclusive. Taking these aspects into account it is proposed to:

- Retain the standardised 1 year holding period, given that this is important in providing a common point of comparison (across PRIIPs with different recommended holding periods), as well as in demonstrating the impact of exiting the investment early;

- Limit the case where a second (middle) intermediate scenario would be shown to longer-term PRIIPs with a recommended holding period of 10 years or more, in order to reduce the number of scenarios shown where possible.

Third, the consumer testing indicated that there was a relatively low level of understanding of the exact nature of the stress scenario. However, this needs to be considered in the context of the overall findings of the consumer testing regarding the challenges for consumers to understand the information provided, given the complexity of the subject matter. In this respect, this relatively low level of understanding of the stress scenario was not significantly different to the level of understanding of other relevant aspects. In addition, as stated above, the stress scenario is considered to be important to reflect the full range of possible outcomes, and therefore this scenario has been retained in the final RTS.

The findings from the consumer testing suggested that the inclusion of information on the minimum return level results in an improved understanding of the features of the product. It was considered to include this information instead of the stress scenario. Even though the stress scenario has been retained, it is still considered relevant to additionally include this information in the performance scenario table. This inclusion of this information was also supported by various respondents to the consultation paper.

4.5 Use of illustrative scenarios

The feedback regarding the use of illustrative scenarios combined with probabilistic performance scenarios was consistent in terms of respondents arguing against these proposals with the main arguments cited being the following:

- Displaying both types of scenarios will create an overload of information;
- Investors probably will not understand the differences between the two methodologies and will be confused;
- Additional scenarios cannot be fitted into the KID (due to the three pages limit).

The consumer testing results also did not provide evidence to support the use of illustrative scenarios together with probabilistic performance scenarios.

In terms of the option to replace the probabilistic performance scenarios with illustrative scenarios, the views of those that responded to this question were more mixed. There also appeared to be some different understandings of the meaning of illustrative scenarios. On the one hand, a significant proportion of respondents in favour of the approach underlined that this type of approach has worked well for structured UCITS for numerous years. It is argued that these scenarios are better suited to retail investors because they do not give the impression that they are seeking to predict the future. On the other hand, numerous respondents that were critical of the proposal highlighted that the choice of scenario is essentially arbitrary. This, it was claimed, allows for the approach to be misused and makes it difficult to compare between PRIIPs. For these respondents, the benefits of such a change in approach did not outweigh the implementation costs of replacing the existing methodology.

The ESAs have decided against the inclusion of illustrative scenarios either together with additional performance scenarios or instead of any other performance scenario approach. It seems clear from the feedback from stakeholders and the findings from the consumer testing that the use of illustrative scenarios combined with additional performance scenarios creates a risk of overloading consumers with information. Regarding the use of illustrative scenarios only, while this was seen to be beneficial by a significant number of respondents, the ESAs have decided against this approach, taking into account:

- The existence of alternative approaches (as discussed above) which do not seem to present the same material drawbacks, such as regarding the risk of inconsistent applications;
- The relevance of conducting consumer testing in order to gather evidence on the extent to which this approach is better understood by consumers. This would allow an assessment of whether any evidence of improved understanding would outweigh the drawbacks identified. In the absence of such testing, the ESAs do not consider there is a robust basis to recommend this approach.

4.6 Issues related to past performance

4.6.1 Information on past performance

Subject to the outcome of the consumer testing study, the consultation paper included proposed rules for the inclusion of past performance in the section of the KID “What are the risks and what could I get in return”, as well as future performance scenarios, for certain types of funds and insurance-based investment products.

In general, all respondents agree that showing past performance together with future performance scenarios based on the existing methodology does not solve the problems identified with the current performance scenarios. The majority of respondents from the UCITS industry with a large position in equity are in favour of the presentation of past performance. Some respondents explicitly stated that their view does not depend on decisions about future performance scenarios. Respondents who represent stakeholders in AIFs (e.g. real estate funds) or UCITS bond funds doubt the additional benefit of past performance or state that this is likely to lead to confusion. Respondents from consumer associations are in favour of showing past performance, at least with respect to linear products. Respondents from the insurance industry in markets with a large market share in profit participation business oppose to include past performance.

The consumer testing study conducted is considered to provide evidence that supports the inclusion of past performance in the KID for relevant funds and insurance-based investment products. In particular, there was no evidence that the inclusion of both past and future performance next to one another resulted in more confusion or worse outcomes for consumers. This is considered to be an important finding, given that some stakeholders identified this as a significant risk.

Therefore, based on these findings of the consumer testing as well as taking into account the feedback from respondents to the public consultation, the ESAs continue to be of the view that past performance is key information for retail investors and consequently that the best approach is to include this information in the KID. This is because it can illustrate the actual behaviour of a product in given market circumstances and help retail investors to appreciate the volatility of the returns of the product, as well as indicate the ability of the investment manager.

At the same time, the ESAs recognise the need for the RTS to be compatible with the Level 1 framework. In this context, it has been argued that the intention of the co-legislators was for performance scenarios to be shown instead of past performance, and consequently that the proposals in the consultation paper were not in line with the PRIIPs Regulation. The ESAs have therefore considered how they could best support their regulatory objectives in this area without risking that the RTS would be deemed as exceeding its legal mandate. Linked to this, the ESAs have also considered the relevance of recommendations to the co-legislators to amend the current PRIIPs Regulation.

Besides the significance of past performance information for retail investors, the current rules[34] on the disclosure of past performance support several additional important regulatory objectives. Firstly, past performance should be disclosed in a standardised manner based on defined rules. In the absence of such rules, product manufacturers could potentially disclose past performance in a way that could be misleading or limit the comparability of the information. Secondly, these rules are also key in relation to the work of ESMA on closet indexing. This is a priority investor protection issue and significant resources have been committed to combatting such practices.

Taking this into account, a “second best” approach, which meets the regulatory aims outlined in the paragraph above and is considered to be clearly compatible with the current Level 1 framework, is to require relevant PRIIP manufacturers to:

- Publish past performance information separate from the KID;
- Refer to this disclosure within the “Other relevant information” section of the KID (Article 8(3)(i) of the PRIIPs Regulation).

This approach has therefore been included in the final draft RTS, and the empowerment in Article 8(5)(a) of the PRIIPs Regulation would be used to specify in the RTS for which types of products past performance would need to be disclosed and how the information should be disclosed. For these

[34] In Commission Regulation (EU) No 583/2010

detailed rules, the ESAs have broadly speaking proceeded with the proposal in the consultation paper covering most types of linear PRIIPs and investment options, (see Section 4.6.2 and 4.6.3 below).

Despite this revised "second best" approach regarding the RTS, as stated above, based on the findings from the consumer testing study, as well as taking into account the feedback from respondents to the public consultation, the ESAs would still recommend, as a preferred approach, to include past performance information within the main contents of the KID. It is understood that this would require a targeted amendment to Article 8 of the PRIIPs Regulation. This recommendation is on the basis that it is key information to inform retail investors about the risk-reward profile of certain types of PRIIPs. In view of this, it is not considered to be preferable that retail investors would need to refer to a separate document in order to locate this information. There are also considered to be some additional administrative burdens for PRIIP manufacturers to disclose this information separately.

4.6.2 Scope of products to disclose past performance

Regarding the scope of products, several respondents argued that past performance should not be included for certain types of funds, in particular closed-ended AIFs (as defined in Article 1(3) of Delegated Regulation (EU) No 694/2014[35]) as there is no relevant 'track record' to use and since distributed income cannot be reinvested.

The ESAs recognise some of the concerns raised and have further specified the definition of PRIIPs that would be required to disclose past performance.

4.6.3 Approach to presentation of past performance (annual or average)

The vast majority of respondents argued to keep the existing approach to present past performance used for the UCITS KIID in order to show annual volatility and that this approach should be applied to all types of PRIIPs where past performance would be shown (and so were not in favour of showing past performance in the form of an average). However, a number of stakeholders considered that an approach using averages would be more appropriate for certain types of PRIIPs, such as with illiquid assets.

The approach of showing past performance as an average is considered to be most relevant for specific types of PRIIPs (e.g. longer-term products). Taking into account that these types of PRIIPs would not be covered by the requirement to show past performance at this stage, it is proposed to draw on the existing approach in the UCITS KIID and only make specific adjustments where these are necessary in a PRIIPs context.

4.6.4 Three-page limit of the KID

Although some respondents were of the view that the three-page limit should not be changed, most of the feedback indicates that, at least for certain types of PRIIPs, it would not be possible to include all of the necessary information within the required three pages if this includes presenting past

[35] Commission Delegated Regulation (EU) No 694/2014 of 17 December 2013 supplementing Directive 2011/61/EU of the European Parliament and of the Council with regard to regulatory technical standards determining types of alternative investment fund managers Text with EEA relevance, OJ L 183, 24.6.2014, p. 18–20

performance in the form of the UCITS bar chart. Several stakeholders suggested that the inclusion of information on past performance could be optional to avoid this issue.

As stated in Section 4.6.1, the approach included in the final draft RTS is for the separate disclosure of past performance, but the ESAs still recommend, as a preferred approach, to include past performance information within the main contents of the KID. The ESAs do not agree with the suggestion from respondents to the public consultation for past performance to be provided on an optional basis, as the ESAs consider that it is important to take a consistent approach regarding the provision of past performance for certain types of products.

If past performance were included in the KID, the ESAs consider that an additional change to the PRIIPs Regulation would be needed to allow the three-page limit to be exceeded given that past performance information can take up to half a page based on the current UCITS approach. However, in this case, given the importance of the KID being a concise document, it would be preferable to limit the change to those cases where past performance is included.

4.6.5 Managed in reference to a benchmark

Certain respondents agreed with the ESAs' analysis in the consultation paper but others (from the fund industry in particular) indicated they do not agree in any case with the ESMA Q&A. Many respondents highlighted the proposed new paragraphs 9 and 11 are in line with the ESMA benchmark disclosure Q&As, but would require further specification as the concept of an index "playing a role" would be too generic. Also, consumer associations highlighted that the ESMA Q&As, despite being already quite prescriptive, are applied differently among Member States. Therefore, they argued it would be appropriate to 'award those with a stronger legal force and include them in the Level 2 legislation on PRIIPs'.

In the final proposals, the ESAs have sought to further clarify the meaning of being managed in reference to a benchmark. In doing so the ESAs referred to the ESMA UCITS benchmark disclosure Q&As published in March 2019[36]. The ESAs also took note of the recent FCA publication[37] on a similar topic.

4.7 Summary cost indicators and presentation of costs

4.7.1 Overall structure of the cost tables and use of two tables (Table 1 and Table 2)

The vast majority of respondents did not agree with the preferred Option 3 that the ESAs presented in the consultation paper. The main arguments provided were that the revised second table would be too complex and contain too many different figures, and that there would no longer be a correspondence between the two cost tables (i.e. the retail investor would not be able to arrive at the

[36] ESMA Q&A on the application of the UCITS Directive

[37] Financial Conduct Authority: Asset Management Market Study – further remedies. Policy Statement PS19/4. February 2019. See, in particular p. 10 of Section 3 "Benchmarks" and p. 8 of Appendix 2

total cost figure by adding up the breakdown of cost figures). It was also asserted that the proposed descriptions of costs in Table 2 would not work for certain types of PRIIPs, in particular insurance-based investment products.

Most respondents favoured an approach based on the current tables in the PRIIPs Delegated Regulation or an option incorporating elements from Option 1 and Option 2 in the consultation paper. Several respondents, including some consumer associations preferred Option 4 on the basis that it is simpler.

Taking into account the options supported by the majority of the respondents, the ESAs have decided to keep the structure of two separate tables, with a first table showing only aggregated figures in monetary and percentage terms, and the second one showing a breakdown per type of costs. Table 2 would include the new column proposed in the consultation paper describing the nature of each cost (including where possible a calculation basis), as it was welcomed by the majority of respondents and is considered relevant for retail investors to better understand the cost structure and how it applies to their circumstances. It can also facilitate disclosures by distributors. However, the prescribed texts have been substantially adjusted in the revised RTS to be more flexible, allowing for specific descriptions to reflect the differences between products. Table 2 would also include a column aiming at greater alignment with the cost disclosure framework for PRIIPs subject to Directive 2014/65/EU (hereafter "MiFID II Directive")[38], while keeping the current approach for insurance-based PRIIPs (see the next Section 4.7.2 below for further explanation).

4.7.2 Use of reduction in yield as a summary (total) cost indicator

Substantial feedback was received on the use of the reduction in yield (RIY) as a summary cost indicator in percentage terms. These views varied between different types of stakeholders.

Respondents from the insurance sector argued that the RIY is a robust and meaningful indicator that can be applied to all PRIIPs because it takes into account the impact of the amount and timing of costs throughout the product's life on its internal rate of return (i.e. the yield). Furthermore, RIY is considered to work equally well for single and regular investment or premium products.

On the other hand, the asset management industry and investment and banking associations insisted on the need to align the cost information disclosed in the different documents received by the retail investor. They also believe that RIY is not easily understandable for retail investors, despite the proposals in the consultation paper to present RIY in simpler terms. The use of a Total Expense Ratio (TER), i.e. costs presented as an annual percentage of the value of the investment, was advocated instead. The use of RIY is not considered to be consistent with MiFID II and in addition, it was highlighted that, cost figures should be calculated using a net performance assumption of zero in order to enable alignment between PRIIPs and MiFID II.

Consumer associations also expressed the view that the RIY is not comprehensible to retail investors. As an alternative, some associations proposed to use an indicator representing the cumulative reduction in return or profit due to costs.

[38] Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU Text with EEA relevance OJ L 173, 12.6.2014, p. 349–496

The ESAs have not changed their view regarding the appropriateness of the RIY as the underlying method to calculate the main summary total cost indicator. However, the ESAs have carefully considered the concerns expressed regarding the use of this type of indicator. In view of this, a number of adjustments have been made to the proposals with a view to facilitating improved alignment between the KID and disclosures under MiFID II, as well as to seek to address issues of consumer understanding.

First, adjustments have been made to the return assumption used; a net performance of zero would be used to calculate the cost figures in the first year which should facilitate alignment with MiFID II cost disclosures. However, it is important to underline that there may still be differences between these two disclosures for other reasons, in particular the need for the distributor to add the costs of their services. In addition, the use of a net performance assumption of zero is not considered appropriate for longer investment horizons given that it is likely to underestimate the monetary cost amounts. In view of this, the cost figures for the other holding periods, including the recommended holding period [39] would continue to be based on the moderate scenario. As proposed in the consultation paper, these growth assumptions would be explicitly stated next to the revised cost table.

Second, based on the feedback and discussions with stakeholders, the ESAs consider that a preferred approach is not to risk complicating the current Table 1 by including additional figures to show the return before and after costs. Instead, a simpler description of the RIY cost indicator has been included beneath the table. Overall, the ESAs consider that the key message for the retail investor is not which calculation method has been used, but that this is a summary figure that they can use to compare between different PRIIPs.

Third, and equally importantly, the approach set out in Option 1 of the consultation paper of showing a different cost indicator in Table 2 for packaged retail investment products (PRIPs) has been decided upon. This is considered to be a balanced way forward, which on the one hand provides a consistent approach across all types of PRIIPs at the level of total costs (in Table 1), where comparability is most important, while on the other hand, facilitating the use of the disclosures in the KID on the cost breakdown (in Table 2) by distributors in the context of the MiFID II cost disclosure framework. In this Table 2, which is key for the understanding of the retail investor of the cost breakdown, RIY will not be used for PRIIPs falling in the scope of MiFID. Instead, per each cost component, these products will show costs in EUR, after one year, as opposed to the approach currently followed in the PRIIPs Delegated Regulation (where RIY is also used).

4.7.3 Other specific cost issues

(i) Costs at intermediate points in time

The majority of respondents were against the use of intermediate holding periods in general, or at least the use of a third holding period in addition to 1 year and the recommended holding period. Of those that expressed a view on whether a "middle" holding period should be set at a fixed point or should remain at half of the recommended holding period, the views were essentially split.

[39] Where the recommended holding period is more than one year.

The ESAs have decided on the following:

- To require the use of a third holding period only in the case of products with a recommended holding period of 10 years or more;
- To retain the current approach that this holding period is set at half of the recommended holding period. Taking into account the different views of stakeholders, the ESAs see benefit in retaining the current approach which provides a balance in the visual presentation.[40]

(ii) Average annual or total (accumulated) monetary costs

The majority of respondents preferred annual figures as they were considered to be more comparable. However, a significant minority of respondents were strongly against the proposal highlighting the risk of diluting the cost figures. In addition, a number of respondents emphasised the need to choose between annual or cumulative figures in order to avoid including additional cost figures.

The ESAs have decided to keep the existing approach, noting in particular the concern that consumers may misread these figures and underestimate the actual costs. This also takes into account that the percentage cost ratio is an annualised figure that allows for comparison.

(iii) Treatment of cost disclosures in the case of real estate or private equity funds

Most respondents indicated that while they fully agree that more clarity is needed on this topic, they do not agree that fees arising from the management of underlying real estate assets should be taken into account in the calculation of the cost indicators.

One respondent suggested that for real estate funds, the only costs which have to be added to the usual fund costs are those concerning the relations with tenants renting properties and to fees paid in case of delegation of operations that are in the manager's scope of activities. In the view of this respondent, other costs related to real estate must be excluded since they are necessary to keep them in good condition and since, quite often, they contribute to their valuation. A similar proposal is made by several other respondents representing the fund industry. For private equity funds, a similar assessment is made by one respondent.

The ESAs acknowledge this issue and will seek to address it in Level 3 guidance, which is considered more appropriate than a Level 2 measure on this specific topic. This Level 3 guidance could be based on the input from certain stakeholders.

[40] An approach of a fixed intermediate holding period of 5 years could have led to questions as to why this five year point had been chosen and how it relates to the recommended holding period.

4.8 Transaction cost methodology

4.8.1 Preference between the two options included in consultation paper

Different views were expressed by stakeholders as to whether they agreed with the ESAs' preferred approach (Option 1) for amending the transaction cost methodology, or whether they preferred a more principles-based approach (Option 2). In addition, those respondents that expressed a preference for Option 2 also generally argued for the need for significant amendments to this option.

Taking into account these different views, the ESAs are still of the view that an approach based on Option 1 is preferred for the reasons stated in the consultation paper, namely the significantly greater risk of inconsistent applications for Option 2. However, the ESAs propose to make specific amendments to Option 1 taking into account the feedback received, as described further below.

4.8.2 The use of slippage and the arrival price

Many respondents raised objections to the use of the slippage methodology for calculating implicit transaction costs. In particular, they would like the methodology to be replaced by various proposals for a bid-ask spread (half-spread) methodology. Respondents' concerns related primarily to the perceived capture of market movements in the slippage methodology and the manner in which an "estimate" is presented in aggregate with "actual" (explicit) costs. Some respondents also argued that slippage is inconsistent with the MiFID II Directive because it captures market movements.

The ESAs continue to be of the view that this is an incorrect representation of slippage, and that slippage is a more accurate representation than bid-ask spread. It is not appropriate to use examples of individual transactions as the basis to evaluate the slippage methodology, as slippage requires an aggregation of transactions to work. Any attempt to capture implicit transaction costs is an estimation. Slippage uses the aggregation of many transactions to eliminate the impact of market movements. The number of transactions undertaken by equity funds over a three-year period should eliminate the consideration of market movements. The analysis conducted by the ESAs prior to and since the application of the PRIIPs Regulation indicates that this is the case, and the ESAs have not received evidence to demonstrate otherwise.

At the same time, with a view to improving the representation of transaction costs to consumers, the ESAs have sought to introduce appropriate exemptions to the use of the slippage methodology, such as where a PRIIP does not generate enough transactions to eliminate market movement with enough statistical certainty. The ESAs have further specified these exemptions in the revised proposals taking into account the feedback received.

4.8.3 Setting a minimum disclosure of explicit costs

Most stakeholders responded negatively to the proposal to introduce a floor on transaction costs. Many respondents argued that this proposal provides evidence that the slippage methodology does not work. Some believed that it would overly inflate positive transaction costs as only negative costs are removed. Some stated that there are legitimate reasons why negative transaction costs can occur and that they should be disclosed when accurate. On the other hand, one consumer body supported the proposal, saying that it would help investors to understand the information in the KID. There were also some concerns regarding how this proposal might affect the application of anti-dilution.

The ESAs have retained the proposed floor of a minimum of explicit transaction costs being disclosed. The ESAs do not agree that such an approach undermines the use of the methodology in general since it would not be applied at the level of individual transactions, but only to the overall transaction cost figure. While the ESAs expect that the other revisions to the methodology should minimise any cases of negative transaction costs at an aggregate level, it is considered to be fully justified to introduce such a floor, given the feedback received that consumers find it difficult to comprehend the concept of negative transaction costs. The ESAs have also specified how this should be applied in relation to anti-dilution mechanisms and stand ready to provide further clarifications on this issue using Level 3 measures.

4.8.4 Use of proportionality thresholds

Although there was significant support from respondents for introducing an element of proportionality into the rules, many respondents commented that the proposed thresholds were not appropriate. Some of the concerns raised included the perceived arbitrary nature of the thresholds, the potential to create a benefit for closed-ended funds over open-ended funds, and that it may create an incentive not to breach any pre-determined threshold, even if to do so would be in the client's best interests.

The ESAs continue to be of the view that it is relevant and justified to incorporate explicit proportionality provisions into the methodology. However, having assessed the feedback provided, the ESAs consider there are substantial drawbacks to prescribe fixed thresholds at this stage. It is instead proposed to regulate the use of the simplified approaches through principled-based criteria. The ESAs have also proposed to include new criteria to assess the proportionality principle, having regard to the order of magnitude of transaction costs as compared to the total costs of the PRIIP. The ESAs intend to provide guidance in a next step using Level 3 measure to support the consistent application and supervision of these criteria.

4.9 Issues related to the end of the exemption in Article 32 of the PRIIPs Regulation

4.9.1 Application of the requirement in Article 13(4) of the PRIIPs Regulation in the case of regular savings plans

In response to question 45 in the consultation paper, the majority of respondents were clearly in favour of changing the PRIIPs Regulation. It is argued that the established market practice under the UCITS regime on the basis of the Q&A is effective and provides retail investors with the relevant information, while not overloading them. In contrast, the approach required for PRIIPs is not considered feasible for mass markets and may disrupt existing saving plans that are often used as long-term savings products. It was also noted that regular saving plans for UCITS are very common in

Italy, Spain and Germany and that these markets would be heavily affected if no change is proposed before the expiry of the UCITS exemption.

Taking into account this feedback, the ESAs recommend a change to the PRIIPs Regulation to address this issue. The ESAs recommend, as a preferred approach, a change to Article 13(4) in line with the UCITS Q&A, which could be drafted as follows:

> *Where successive transactions regarding the same PRIIP are carried out on behalf of a retail investor in accordance with instructions given by that retail investor to the person selling the PRIIP prior to the first transaction, the obligation to provide a key information document under paragraph 1 shall apply only to the first transaction, and to provide a detailed description where the revised key information document in accordance with Article 10 can be found. Additionally, prior to an additional subscription, the latest revised version of the key information document shall be provided to the retail investor upon request.*

An alternative approach to change the PRIIPs Regulation that would also address this issue is to introduce a grandfathering provision for existing savings plan, such that the provision in Article 13(4) would only apply to saving plans concluded from 1 January 2022. This would avoid creating issues for existing retail investors, who may be confused by the change in approach and may not welcome the additional information, in particular if updates are made on a frequent basis, such as monthly.

4.9.2 Potential co-existence of UCITS KIID and PRIIPs KID

A vast majority of stakeholders indicated that they object to the coexistence of the PRIIPs KID and the UCITS KIID, and they prefer professional investors to be granted neither a PRIIPs KID nor a UCITS KIID, because they think these documents are not appropriate for professional investors. However, certain stakeholders (mostly from the insurance sector) indicate that if one document should be distributed to professional investors, that should be the PRIIPs KID.

The recommendation of the ESAs is to avoid the coexistence of the PRIIPs KID and the UCITS KIID. This is expected to mean that that the UCITS Directive would need to be amended so that UCITS managers no longer have to provide a UCITS KIID to retail investors.

At this stage, the ESAs have not provided a recommendation on which document, if any, should be provided to professional investors, instead of the UCITS KIID. This is because the ESAs are of the view that more time is needed to reflect on this issue.

4.9.3 Inclusion of provisions from UCITS Implementing Regulation (583/2010) in PRIIPs Delegated Regulation

Several respondents (from the insurance and banking sectors) indicated that these requirements should not be extended to PRIIPs other than UCITS. Some of these respondents indicated that this additional information would not fit within the required three pages.

However, several other respondents (from the asset management sector), on the contrary, indicated that these requirements should be extended to all PRIIPs, because that would ensure harmonisation and a level-playing field.

Finally, certain stakeholders indicated that these requirements should be extended to AIFs only.

The ESAs are of the view that a case by case analysis of which articles should be extended to all PRIIPs is needed.

Regarding question 46 in the consultation paper, the final proposal is to extend the requirements of Article 4 of the UCITS Regulation 583/2010 to PRIIPs other than UCITS as follows:

- Article 4(4): This is included only for UCITS and AIFs;
- Article 4(6): To extend the requirement relating to a group to all PRIIPs where this case is applicable;
- Article 4(12): The name of the competent authority is already included in PRIIPs Delegated Regulation. In relation to the name of the country in which the product is authorised the final proposal is to extend the requirement to all products using the terms "where applicable". The information related to the management company would be restricted only to UCITS and AIFs.

Regarding question 47 related to UCITS Q&A 5 and 7, given the ongoing discussions on the status of Q&As after the implementation of the ESA review, it is proposed to defer the discussion of this issue until there is greater clarity on this point. On the contents, the ESAs are of the view that it could be envisaged to include Q&A 5 and 7 under UCITS as Level 3 guidance under the PRIIPs Regulation, for UCITS and possibly for AIFs.

Regarding question 48, the final proposals are to extend most of the requirements to AIFs only, taking into account some of the specific proposals made by certain stakeholders. In more details, the final proposals are to extend the requirements of UCITS Regulation 583/2010 to PRIIPs other than UCITS as follows:

- Articles 7 and 9: to extend the requirements of these articles to AIFs only (where applicable)
- Article 20(1), points (a), (b) and (c) (given existing requirements covering the other points of this article): to extend the requirements of this article to AIFs only;
- Article 21: to extend this article to all PRIIPs, adding the terms 'without prejudice to Article 6 of the PRIIPs Regulation'.

Regarding question 49 the ESAs' final proposal is to extend these requirements to AIFs given their specificities to particular types of investment funds, except Articles 31, 32 and 34 of UCITS Regulation 583/2010 ('Feeder UCITS').

4.10 PRIIPs offering a range of options for investment

4.10.1 Proposed approach for the most commonly selected investment options

All respondents from the financial industry were critical of this proposal, which they argued would be costly to implement and would not bring benefits in terms of consumer understanding. Some of the challenges raised included:

- The approach is not meaningful in the case of products where the investment selection is left entirely to the retail investor;
- The proposal would introduce a new type of document in addition to the generic KID and specific information;
- The (four) options selected are likely to be taken as recommended options;
- It is not clear how to apply some aspects of the proposals in practice, such as how the most commonly selected options could at the same time reflect the diversity of investment objectives;
- It will increase the number of KID, and this was a particular concern where the PRIIP manufacturer had already decided to prepare several KIDs for the same product, such as reflecting different possible holding periods;
- In the absence of consumer testing it is not possible to know whether the proposals will be an improvement.

As noted by some respondents, the ESAs consider that the optimal way to address the challenges for MOPs is to use digital solutions. However, to require such an approach would necessitate changes to the PRIIPs Regulation (see Section 4.12 below "Digital solutions").

In the meantime, the ESAs recognise the concerns regarding the importance of ensuring the practical feasibility of the approach in different markets, as well as seeking to avoid any unintended consequences, in particular regarding the implications for consumer understanding. Within the time constraints of the current review, the ESAs have judged that there was not sufficient time to carry out the necessary follow up analysis to ensure the robustness of the proposals. This proposal has therefore not been included in the set of amendments being submitted to the European Commission at this stage.

4.10.2 Proposal to provide a range of costs per risk class

Most respondents were not in favour of the proposal. The main argument was that it would introduce too many different figures into the cost tables, which was seen as likely to confuse consumers. It was also contended that the proposal was not conceptually sound, because there is not necessarily a link between the risk class and costliness of an option. One consumer association considered that the proposal would bring a slight improvement.

The ESAs acknowledged in the consultation paper that the inclusion of more cost figures could be seen as drawback. However, the ESAs were interested in receiving feedback as to whether these figures were expected to be seen as additional relevant information. In view of the feedback received, as well as taking into account the feedback received more generally on the cost tables - to limit the number of data points shown - the ESA have decided not to proceed with this proposal at this stage.

4.10.3 Additional references or narratives within the specific information on underlying investment options

Those stakeholders that responded to the proposals on MOPs were strongly against the potential requirement to add a cross-reference to the overall MOP within the document providing specific information on each underlying investment option. It was contended that this would raise very major practical challenges for those products with a high number of investment options, and the more so where a particular investment option was offered within more than one MOP.

Having considered the concerns raised, the ESAs have not included this requirement within the final RTS. Taking into account certain market practices, the ESAs would still see benefit in ensuring that there is a clear connection between the information on the overall MOP and the underlying investment option. However, the ESAs judged that it can be possible to provide clarity in this respect through other means, such as via clear structuring or signposting on the manufacturer's website.

4.10.4 Proposal to provide separate disclosure of the costs of the insurance contract or wrapper

A specific proposal was received from a consumer association to provide a separation, in the generic KID, between the costs of the insurance contract or wrapper and the costs associated with the underlying investment options. Currently this distinction is not made within the generic KID.

The ESAs agree that this is a relevant proposal that can assist the retail investor to be able to identify the total costs of investing in a particular investment option. The ESAs have therefore included this additional amendment in the draft RTS. Nevertheless, the ESAs are aware that the costs specific to the insurance contract or wrapper may not always be clearly separable from the costs of the underlying investment options. This can include the case where these costs vary between different investment options. Given that it is not considered to be beneficial to introduce an additional cost range, it has been specified that this new approach would apply where the contract or wrapper costs can be provided in a single figure.

4.11 Feedback on other issues not discussed in the consultation paper

4.11.1 Introduction

Feedback was received on a wide range of different issues concerning both the PRIIPs Regulation and Delegated Regulation.

When considering these issues, given the timeline for finalising this review, it was necessary for the ESAs to prioritise those issues that were considered relevant and possible to address as part of this review, taking into account:

- The extent to which the feedback corresponded to information gathered by the ESAs and NCAs since 1 January 2018 that the current rules may not be achieving their intended outcomes in practice;
- The main aims of this review, including to address primarily issues concerning the Delegated Regulation;
- The feasibility of addressing the issue within the timeframe.

In particular, it can be mentioned that despite the numerous comments received on this topic, the ESAs judged that it was not appropriate to address issues of the scope of the PRIIPs Regulation during this review. This also took into account the general recommendation that the ESAs made on this topic already in a Supervisory Statement published in October last year.[41]

4.11.2 Summary risk indicator

Numerous respondents, mainly on the asset management side, stated that the methodology for the summary risk indicator (SRI) should have been part of this review. The main point raised was that the SRI can be too low for certain types of PRIIPs where there is a material risk of significant loss, but there may have been relatively low volatility over recent years. One example given was venture capital funds.

It was also stated that when UCITS would prepare a PRIIPs KID instead of a UCITS KIID, given the differences between the PRIIPs SRI and the UCITS synthetic risk and reward indicator, there could be questions from retail investors as to whether the risk of the UCITS has decreased when they are provided with a PRIIPs KID for that UCITS[42].

The ESAs have not proposed substantive amendments to the methodology for the SRI. The ESAs discussed this issue during the previous consultation paper issued in November 2018, highlighting the relevance of point 4(b) of Annex III of the PRIIPs Delegated Regulation, requiring a narrative to be added to explain materially relevant risks not captured by the SRI (Element E).

Nevertheless, the ESAs recognise the concern to understate the risks of the product, as well as the fact that more attention is likely to be paid to the overall visual SRI. In view of this, the ESAs propose to introduce a provision allowing the PRIIP manufacturer to increase the SRI where they consider that it does not adequately reflect the risks of the product.

The ESAs are also aware that there are differences between the PRIIPs and UCITS risk indicator scales, which reflects the wider scope of products under PRIIPs. However, the ESAs agree that it would be relevant for UCITS providers to consider if additional communications are needed to clarify the regulatory changes. The ESAs will also consider if it is beneficial in a next step to provide guidance on how this might best be done.

4.11.3 Issues relating to specific product types

Various respondents argued that the existing requirements were not suited to specific product types, for example in terms of the need to specify a recommended holding period or use prescribed

[41] JC 2019 64

[42] Given that the PRIIPs methodology will usually result in a lower risk indicator.

narratives. This concerned in particular types of derivatives and on the insurance side, annuities or funeral plans. Proposals were also received to specify the treatment of auto callable products.

The ESAs took note of the concerns raised and have proposed specific amendments where these were considered to be justified. This included to reflect some existing Q&As that had been published.[43] Regarding auto callable products, in the revised RTS the ESAs have further specified how the information on performance and costs should be presented in this case building on the proposals made in the previous consultation paper in November 2018.

4.11.4 Other minor amendments

The ESAs have also used the opportunity of this RTS to propose other minor non-substantive changes or corrections. This includes, for example, that the template in Annex I of the Delegated Regulation does not include a heading for the term or maturity of the PRIIP.

4.12 Use of digital solutions

Various respondents explained that digital solutions in the form of dynamic or personalised documents are possible within the current framework. However, most respondents highlighted that these solutions can only be a complement to paper or PDF based solutions, given the requirements in Article 14 of the PRIIPs Regulation. In view of this, various stakeholders argued that the existing "paper default" basis of the KID, and for example the need to evidence that a paper delivery is not preferred, is unnecessarily burdensome and not in line with the general move away from paper solutions. It was also noted that what may be described as "truly digital solutions" such as those compatible with mobile devices, are not currently possible due to the structure of the KID specified by Article 6 of the PRIIPs Regulation.

The ESAs consider that there is a need to find a balance between quick, effective and innovative IT solutions, and at the same time ensuring a consistent level of consumer protection and clear communication of important information.

To support this a more fundamental assessment is needed of how regulatory disclosures and communications can work best for consumers in a digital, and in particular smartphone, age, rather than simply replicating paper via digital means. It is not appropriate for the ESAs to address detailed recommendations at this time; rather it is expected that this will be taken into account during upcoming more comprehensive reviews of PRIIPs, as well as other sectorial legislation.

Nevertheless, the ESAs would note that it could still be considered, as an interim approach, to provide more of a balance between paper and other deliveries, such as via another durable medium or via a website, while still allowing for paper versions to be requested free of charge. For this, the approach

[43] For example concerning PRIIPs with a recommended holding period of less than one year.

in the Regulation on a pan-European Personal Pension Product (PEPP) could potentially be drawn upon.[44]

4.13 KID format and use of data extraction tools

Stakeholders representing PRIIP manufacturers or distributors were generally sceptical about the benefit of specifying a certain KID format that would allow for information to be readily extracted using an IT tool, compared to the potentially high implement cost. It was also noted that there is not a single accepted format that could be drawn upon. At the same time, several respondents, including consumer associations, saw benefit in such an initiative.

The ESAs continue to see benefit in exploring how such tools could be promoted. In this respect, the ESAs have already started to assess the difficulties of any macro treatment of the information included in KIDs in relation to:

- the absence of a single electronic repository of KIDs;
- the format in which KIDs are published electronically; and
- in some cases, the mere difficulties to access KIDs electronically.

Taking into account the concerns expressed, the ESAs will consider further the feasibility of different approaches before proposing specific requirements or recommendations. This will include to further explore current market practices, as well as if non-legislative tools or measures could be relevant.

[44] Regulation (EU) 2019/1238 of the European Parliament and of the Council of 20 June 2019 on a pan-European Personal Pension Product (PEPP) (Text with EEA relevance), OJ L 198, 25.7.2019, p. 1–63

5. Regulatory technical standards

COMMISSION DELEGATED REGULATION (EU) …/..
of XXX

amending Delegated Regulation (EU) 2017/653 supplementing Regulation (EU) No 1286/2014 of the European Parliament and of the Council with regard to regulatory technical standards for the underpinning methodology and presentation of performance scenarios, the presentation of costs and the methodology for the calculation of summary cost indicators, the presentation and content of information on past performance and the presentation of costs by PRIIPs offering a range of options for investment

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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)[45], and in particular Article 8(5) and Article 10(2) thereof,

Whereas:

(1) Experience gained during the first years of application of Commission Delegated Regulation (EU) 2017/653[46] has shown the need to revise certain elements of presentation and content of key information documents. Such revision is necessary to ensure that retail investors continue to be provided with appropriate information across the range of different types of packaged retail and insurance-based investment products (‘PRIIPs’), irrespective of the particular market circumstances, in particular when there has been a sustained period of positive market performance.

(2) To provide retail investors with information that is understandable, not misleading, and relevant for different types of PRIIPs, performance scenarios shown in key information documents should not provide an overly positive outlook for potential future returns. Since the performance of underlying investments and the performance of non-structured investment funds and other similar PRIIPs are directly linked, the underpinning methodology for the presentation of performance scenarios should be adapted to avoid relying on a statistical method which produces performance scenarios that could amplify observed returns. The underpinning methodology for the presentation of performance scenarios should also be adapted to ensure that those scenarios are based on a longer period of observed returns, capturing both periods of positive and negative growth, thus providing more stable performance scenarios over time and minimising pro-cyclical

[45] OJ L 352, 9.12.2014, p. 1.

[46] 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 (OJ L 100, 12.4.2017, p. 1).

outcomes. The ability of the methodology for the presentation of performance scenarios to provide appropriate forward-looking estimates has been demonstrated through back-testing which compared the outcomes of that methodology with actual observed performance of PRIIPs.

(3) To avoid that performance scenarios are considered as best estimate forecasts, it is necessary to impose more prominent warnings about those scenarios. The disclosure, in simple terms, of additional details on the assumptions made to produce the scenarios should also reduce the risk of inappropriate expectations being generated regarding possible future returns.

(4) Information on costs is important for retail investors when comparing different PRIIPs. In order to enable retail investors to better understand the different types of cost structures of different PRIIPs and the relevance of those structures to their individual circumstances, information in the key information documents on costs should include a description of the main cost elements. Furthermore, to facilitate advising on and selling PRIIPs the indicators for individual cost elements should be aligned with information disclosed under sectoral Union legislation, in particular Directive 2014/65/EU of the European Parliament and of the Council[47] and Directive (EU) 2016/97 of the European Parliament and of the Council[48], while ensuring comparability across all types of PRIIPs with regard to total costs. This Regulation also requires new narratives to clarify the meaning of summary cost indicators in key information documents, so that retail investors are able to better comprehend such summary cost indicators.

(5) To better take into account economic features of certain asset classes and those PRIIPs that do not generate enough transactions to eliminate market movements with enough statistical certainty, the methodology for the calculation of transaction costs should employ a more differentiated and proportionate approach. The methodology should also eliminate the potential occurrence of negative transaction costs to avoid the risk of confusing retail investors.

(6) For PRIIPs offering a range of options for investment, an adjusted presentation of information on costs should be laid down to improve the understanding by retail investors of the cost implications of those different investment options.

(7) To allow retail investors to observe, understand and compare the occurrence of volatility in the returns of linear PRIIPs and linear underlying investment options as well as previous performance in given market circumstances, this Regulation includes certain requirements on the standardised content and presentation of past performance in Delegated Regulation (EU) 2017/653, by adapting rules laid down by Commission Regulation (EU) No 583/2010[49]. The standardised content and presentation of past performance should complement the information provided by performance scenarios. These linear PRIIPs and linear underlying investment options should include in the section titled 'Other relevant information' of the key information documents cross-references to separate documents or websites with past performance information.

47 Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349).

48 Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (OJ L 26, 2.2.2016, p. 19).

49 Commission Regulation (EU) No 583/2010 of 1 July 2010 implementing Directive 2009/65/EC of the European Parliament and of the Council as regards key investor information and conditions to be met when providing key investor information or the prospectus in a durable medium other than paper or by means of a website (OJ L 176, 10.7.2010, p. 1).

(8) Delegated Regulation (EU) 2017/653 includes several minor drafting errors or omissions to the template for the key information document, which should be corrected accordingly.

(9) Delegated Regulation (EU) 2017/653 should therefore be amended accordingly.

(10) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the European Banking Authority, the European Insurance and Occupational Pensions Authority, and the European Securities and Markets Authority (the 'European Supervisory Authorities').

(11) The European Supervisory Authorities have conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits, and requested the advice of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council[50], the Insurance and Reinsurance Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1094/2010 of the European Parliament and of the Council[51], and the Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council[52],

HAS ADOPTED THIS REGULATION:

Article 1

Delegated Regulation (EU) 2017/653 is amended as follows:

(1) in Article 1, first subparagraph, the following points (f), (g) and (h) are added:

"(f) where applicable, in cases where the PRIIP manufacturer forms part of a group of companies for legal, administrative or marketing purposes, the name of that group;

(g) where the PRIIP takes the form of an Undertaking for Collective Investment in Transferable Securities (UCITS) or an Alternative Investment Fund (AIF), the identification of the UCITS or AIF including the share class or investment compartment thereof, stated prominently. In the case of an investment compartment or share class, the name of the UCITS or AIF shall follow the compartment or share class name. Where a code number identifying the UCITS or AIF, investment compartment or share class exists, it shall form part of the identification of the UCITS or AIF;

(h) authorisation details, where applicable. Where the PRIIP takes the form of a UCITS or AIF and in cases where a UCITS is managed by a management company as defined

50 Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

51 Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (OJ L 331, 15.12.2010, p. 48).

52 Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

in Article 2(1), point (b) of Directive 2009/65/EC or where it is an investment company as referred to in Article 27 of the Directive (collectively UCITS management company) which is exercising in respect of that UCITS rights under Article 16 that Directive, or in cases where an AIF is managed by an alternative investment fund manager (AIFM) which is exercising in respect of that AIF rights under Articles 31, 32 and 33 of Directive 2011/61/EU, an additional statement in respect of that fact shall be included.";

(2) Article 2 is amended as follows:

(a) the following paragraphs 2a, 2b and 2c are inserted:

"2a. Where the PRIIP takes the form of a UCITS or an AIF, the information in the section entitled 'What is this product' of the key information document shall cover those essential features of a UCITS or AIF about which a retail investor shall be informed, even where those features do not form part of the description of objectives and investment policy in the prospectus of a UCITS as referred to in Article 68 of Directive 2009/65/EC or the description of the investment strategy and objectives of the AIF referred to in Article 23(1), point (a), of Directive 2011/61/EU, including:

(a) the main categories of eligible financial instruments that are the object of investment;

(b) the possibility that the retail investor may redeem units of UCITS or AIF on demand, qualifying that statement with an indication as to the frequency of dealing in units, or where applicable a statement that there is not the possibility to redeem units on demand;

(c) whether the UCITS or AIF has a particular target in relation to any industrial, geographic or other market sectors or specific classes of assets;

(d) whether the UCITS or AIF allows for discretionary choices in regards to the particular investments that are to be made, and whether this approach includes or implies a reference to a benchmark and if so, which one;

(e) whether dividend income is distributed or reinvested.

For the purposes of point (d) of the first subparagraph, where a reference to a benchmark is implied, the degree of freedom available in relation to this benchmark shall be indicated, and where the UCITS or AIF has an index-tracking objective, this shall be stated.

2b. The information referred to in paragraph 2a shall include the following information, where relevant:

(a) where the UCITS or AIF invests in debt securities, an indication of whether they are issued by corporate bodies, governments or other entities, and, if applicable, any minimum rating requirements;

(b) where the UCITS or AIF is a structured investment fund, an explanation in simple terms of all elements necessary for a correct understanding of the pay-off and the factors that are expected to determine performance, including references, if necessary, to the details on the algorithm and its workings which appear in the prospectus of the UCITS or the description of the investment strategy and objectives of the AIF;

(c) where the choice of assets is guided by specific criteria, an explanation of those criteria, such as ‘growth’, ‘value’ or ‘high dividends’;

(d) where specific asset management techniques are used, which may include hedging, arbitrage or leverage, an explanation in simple terms of the factors that are expected to determine the performance of the UCITS or AIF.

2c. The information referred to in paragraphs 2a and 2b shall distinguish between the broad categories of investments as specified in paragraph 2a, points (a) and (c), and paragraph 2b, point (a), and the approach to those investments to be adopted by a UCITS management company or an AIFM as specified in paragraph 2a, point (d) and paragraph 2b, points (b), (c) and (d).

The section entitled ‘What is this product?’ of the key information document may contain other elements than those listed in paragraphs 2a and 2b, including the description of the UCITS or AIF’s investment strategy, where those elements are necessary to adequately describe the objectives and investment policy of the UCITS or AIF.”;

(b) the following paragraphs 6 and 7 are added:

“6. Where the PRIIP takes the form of a UCITS or an AIF, the identification and explanation of risks referred to in Annexes II and III shall be consistent with the internal process for identifying, measuring, managing and monitoring risk adopted by the UCITS’ management company in accordance with Directive 2009/65/EC or AIFMs in accordance with Directive 2011/61/EU. Where a management company manages more than one UCITS or where an AIFM manages more than one AIF, the risks shall be identified and explained in a consistent manner.

7. Where the PRIIP takes the form of a UCITS or an AIF, the section entitled ‘What is this product?’ of the key information document shall contain the following information for every Member State in which the UCITS or AIF is marketed:

(a) the name of the depositary;

(b) where and how to obtain further information about the UCITS or AIF, copies of the UCITS' prospectus or copies of the description of the investment strategy and objectives of the AIF, the latest annual report and any subsequent half-yearly report of the UCITS as referred to in Article 68(1), points (b) and (c), of Directive 2009/65/EC, or the latest annual report of the AIF as referred to in Article 22 of Directive 2011/61/EU, stating in which language(s) those documents are available, and that they may be obtained free of charge;

(c) where and how to obtain other practical information, including where to find the latest prices of units.";

(3) Article 5 is amended as follows:

(a) in paragraph 2, the following subparagraph is added:

"A prominent warning shall be added, where applicable, regarding the additional costs that may be charged by persons advising on, or selling, the PRIIP.";

(b) paragraph 3 is replaced by the following:

"3. In the 'Composition of costs' table in the section titled 'What are the costs?' of the key information document, PRIIP manufacturers shall specify summary indicators of the following types of costs:

(a) any one-off costs, as entry and exit costs;

(b) any recurring costs, separating portfolio transaction costs and other recurring costs;

(c) any incidental costs, such as performance fees or carried interest.";

(c) paragraph 4 is replaced by the following:

"4. PRIIP manufacturers shall describe each of the different costs included in the 'Composition of costs' table in the section titled 'What are the costs?' of the key information document, in accordance with Annex VII, and shall specify where and how those costs may differ from the actual costs the retail investor may incur, and where and how such costs may depend on whether the retail investor does or does not exercise certain options.";

(4) in Article 8, the following paragraph 3 is added:

"3. For UCITS as defined in point 1(a) of Annex VIII, AIFs as defined in point 1(b) of that Annex, or unit-linked insurance-based investment products as defined in point 1(c) of that Annex, the section titled "Other relevant information" of the key information document shall include:

(a) a link to the website, or a reference to a document, where the information about past performance published by the PRIIP manufacturer in accordance with Annex VIII is made available;

(b) the number of years for which past performance data is presented.

For PRIIPs referred to in Annex II, Part 1, point 5, that are open-ended funds, or other PRIIPs open to subscription, previous performance scenario calculations shall be published on a monthly basis and the section titled “Other relevant information” shall state where those calculations can be found.”;

(5) the title of Chapter II is replaced by the following:

“**CHAPTER II**

SPECIFIC PROVISIONS ON THE KEY INFORMATION DOCUMENTS BY PRIIPS OFFERING A RANGE OF OPTIONS FOR INVESTMENT”;

(6) in Article 10, points (a) and (b) are replaced by the following:

“(a) a key information document for each underlying investment option within the PRIIP, in accordance with Chapter I, including information about the PRIIP as a whole, with each key information document reflecting the case that the retail investor invests in one investment option only;

(b) a generic key information document describing the PRIIP in accordance with Chapter I, unless otherwise specified in Articles 11 to 14, including a description of where the specific information on each underlying investment option can be found.”;

(7) in Article 11, point (c) is deleted;

(8) Article 12 is amended as follows:

(a) in paragraph 1, point (d) is deleted;

(b) paragraph 2 is deleted;

(9) Articles 13 and 14 are replaced by the following:

“*Article 13*

‘What are the costs?’ section in the generic key information document

In the section titled ‘What are the costs?’, by way of derogation from Article 5(1), point (b), PRIIP manufacturers shall specify the following:

(a) where the costs of the PRIIP other than the costs for the underlying investment option cannot be provided in a single figure, including where they vary depending on the underlying investment option selected:

(i) the range of costs for the PRIIP in the ‘Costs over time’ and ‘Composition of costs’ tables set out in Annex VII;

(ii) a statement indicating that the costs to the retail investor vary on the basis of the underlying investment options;

(b) where the costs of the PRIIP other than the costs for the underlying investment options can be provided in a single figure:

(i) those costs shown separately from the range of costs for the underlying investment options offered by the PRIIP in the 'Costs over time' and 'Composition of costs' tables set out in Annex VII;

(ii) a statement indicating that the total costs to the retail investor consist of a combination of the costs for the underlying investment options chosen and other costs of the PRIIP and vary on the basis of the underlying investment options.

Article 14

Specific information on each underlying investment option

The specific information on each underlying investment option, referred to in Article 10, point (b), shall be provided in a specific information document, the main purpose of which is to supplement the generic key information document. PRIIP manufacturers shall include for each underlying investment option all of the following:

(a) a comprehension alert, where relevant;

(b) the investment objectives, the means for achieving them, and the intended target market as referred to in paragraphs 2 and 3 of Article 2;

(c) a summary risk indicator and narrative, and performance scenarios, as referred to in Article 3;

(d) a presentation of the costs, in accordance with Article 5, including a statement on whether or not those costs include all of the costs of the PRIIP in the case that the retail investor invests in that specific investment option only;

(e) for underlying investment options that are UCITS as defined in point 1(a) of Annex VIII, AIFs as defined in point 1(b) of that Annex, or unit-linked insurance-based investment products as defined in point 1(c) of that Annex, information about past performance as required by Article 8(3).

The information referred to in points (a) to (e) shall follow the structure of the relevant parts of the template laid down in Annex I.";

(10) The following Chapter IIa is inserted:

"CHAPTER IIA

SPECIFIC PROVISIONS ON THE KEY INFORMATION DOCUMENTS BY CERTAIN UCITS AND AIFs

Article 14a

Investment compartments of UCITS or AIFs

1. Where a UCITS or AIF consists of two or more investment compartments, a separate key information document shall be produced for each individual compartment.

2. Each key information document referred to in paragraph 1 shall contain, in the section entitled 'What is this product', the following information:

(a) a statement that the key information document describes a compartment of a UCITS or AIF, and, where applicable, that the prospectus of the UCITS or the description of the investment strategy and objectives of the AIF and periodic reports are prepared for the entire UCITS or AIF named at the beginning of the key information document;

(b) whether or not the assets and liabilities of each compartment are segregated by law and how this might affect the investor;

(c) whether or not the retail investor has the right to exchange his investment in units in one compartment for units in another compartment, and if so, where to obtain information about how to exercise that right.

3. Where the UCITS management company or the AIFM sets a charge for the retail investor to exchange his investment in accordance with paragraph 2, point (c), and that charge differs from the standard charge for buying or selling units, that charge shall be stated separately in the section entitled 'What are the costs?' of the key information document.

Article 14b

Share classes of UCITS or AIFs

1. Where a UCITS or AIF consists of more than one class of units or shares, the key information document shall be prepared for each class of units or shares.

2. The key information document pertinent to two or more classes of the same UCITS or AIF may be combined into a single key information document, provided that the resulting document fully complies with all requirements on length, language and presentation of the key information document.

3. The UCITS management company or AIFM may select a class to represent one or more other classes of the UCITS or AIF, provided the choice is fair, clear and not misleading to potential retail investors in those other classes. In such cases the section entitled 'What are the risks and what could I get in return' of the key information document shall contain the explanation of material risk applicable to any of the other classes being represented. A key information document based on the representative class may be provided to retail investors in the other classes.

4. Different classes shall not be combined into a composite representative class as referred to in paragraph 3.

5. The UCITS management company or AIFM shall keep a record of which other classes are represented by the representative class referred to in paragraph 3 and the grounds justifying that choice.

6. Where applicable, the section entitled 'What is this product?' of the key information document shall be supplemented by an indication of which class has been selected as representative, using the term by which it is designated in the UCITS' prospectus or in the description of the investment strategy and objectives of the AIF.

That section shall also indicate where retail investors can obtain information about the other classes of the UCITS or AIF that are marketed in their own Member State.

Article 14c

UCITS or AIFs as fund of funds

1. Where the UCITS invests a substantial proportion of its assets in other UCITS or other collective investment undertakings as referred to in Article 50(1), point (e), of Directive 2009/65/EC, the description of the objectives and investment policy of that UCITS in the key information document shall include a brief explanation of how the other collective undertakings are to be selected on an ongoing basis.

Where a UCITS is a fund of hedge funds the key information document shall include information about the purchase of non-EU AIFs that are not under supervision.

2. Where the AIF invests a substantial proportion of its assets in other UCITS or AIFs, paragraphs 1 and 2 shall apply *mutatis mutandis*.

Article 14d

Feeder UCITS

1. The feeder UCITS, as defined in Article 58 of Directive 2009/65/EC, shall contain, in the section entitled 'What is this product?' the following information specific to the feeder UCITS:

(a) a statement that the master UCITS' prospectus, key information document, and periodic reports and accounts are available to retail investors of the feeder UCITS upon request, how they may be obtained, and in which language(s);

(b) whether the items listed in point (a) of this paragraph are available in paper copies only or in other durable media, and whether any fee is payable for items not subject to free delivery in accordance with Article 63(5) of Directive 2009/65/EC;

(c) where the master UCITS is established in a different Member State to the feeder UCITS, and where this may affect the feeder UCITS's tax treatment, a statement to this effect;

(d) information about the proportion of the feeder UCITS' assets which is invested in the master UCITS;

(e) a description of the master UCITS' objectives and investment policy, supplemented, as appropriate, by either of the following:

(i) an indication that the feeder UCITS' investment returns will be very similar to those of the master UCITS; or

(ii) an explanation of how and why the investment returns of the feeder and master UCITS may differ.

2. Where the risk and reward profile of the feeder UCITS differs in any material respect from that of the master UCITS, that fact and the reason for it shall be explained in the section entitled 'What are the risks and what could I get in return?' of the key information document.

3. Any liquidity risk and the relationship between purchase and redemption arrangements for the master and feeder UCITS shall be explained in the section entitled 'What are the risks and what could I get in return? of the key information document.

Article 14e

Structured UCITS or AIF

Structured investment funds are UCITS or AIFs which provide retail investors, at certain predetermined dates, with algorithm-based payoffs that are linked to the performance, or to the realisation of price changes or other conditions, of financial assets, indices or reference portfolios or UCITS or AIFs with similar features.";

(11) in paragraph 2 of Article 15, the following point is added:

"(d) where the performance scenarios are based on appropriate benchmarks or proxies, the consistency of the benchmark or proxy with the objectives of the PRIIP.";

(12) the following Chapter IVa is inserted:

"Chapter IVa

CROSS-REFERENCES

Article 17a

Use of cross-references to other sources of information

Without prejudice to Article 6 of the Regulation (EU) No 1286/2014, cross-references to other sources of information, including the prospectus and annual or half-yearly reports, may be included in the key information document, provided that all information fundamental to the retail investors' understanding of the essential elements of the investment is included in the key information document.

Cross-references shall be permitted to the website of the PRIIP or the PRIIP manufacturer, including a part of any such website containing the prospectus and the periodic reports.

Cross-references referred to in the first subparagraph shall direct the retail investor to the specific section of the relevant source of information. Several different cross-references may be used within the key information document but they shall be kept to a minimum.";

(13) Annex I to Delegated Regulation (EU) 2017/653 is replaced by the text in Annex I to this Regulation;

(14) Annex II to Delegated Regulation (EU) 2017/653 is amended in accordance with the text in Annex II to this Regulation;

(15) Annex III to Delegated Regulation (EU) 2017/653 is amended in accordance with the text in Annex III to this Regulation;

(16) Annex IV to Delegated Regulation (EU) 2017/653 is replaced by the text in Annex IV to this Regulation;

(17) Annex V to Delegated Regulation (EU) 2017/653 is replaced by the text in Annex V to this Regulation;

(18) Annex VI to Delegated Regulation (EU) 2017/653 is amended in accordance with the text in Annex VI to this Regulation;

(19) Annex VII to Delegated Regulation (EU) 2017/653 is replaced by the text in Annex VII to this Delegated Regulation;

(20) Annex VIII is added to Delegated Regulation (EU) 2017/653 by Annex VIII of this Regulation.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2022.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Commission
The President

[For the Commission
On behalf of the President

[Position]

ANNEX I

Annex I to Delegated Regulation (EU) 2017/653 is replaced by the following:

"Annex I

TEMPLATE FOR THE KEY INFORMATION DOCUMENT

PRIIP manufacturers shall comply with the section order and titles set out in the template, which however does not fix parameters regarding the length of individual sections and the placing of page breaks, and is subject to an overall maximum of three sides of A4-sized paper when printed.

Key Information Document

Purpose

This document provides you with key information about this investment product. It is not marketing material. The information is required by law to help you understand the nature, risks, costs, potential gains and losses of this product and to help you compare it with other products.

Product

[Name of Product]
[Name of PRIIP manufacturer]
(where applicable) [ISIN or UPI]
[website for PRIIP manufacturer]
[Call [telephone number] for more information]
[[Name of Competent Authority] is responsible for supervising [Name of PRIIP Manufacturer] in relation to this Key Information Document]
(where applicable) [This PRIIP is authorised in [name of Member State]]
(where applicable) [[Name of UCITS management company] is authorised in [name of Member State] and regulated by [identity of competent authority]
(where applicable) [Name of AIFM] is authorised in [name of Member State] and regulated by [identity of competent authority]
[date of production of the KID]

[Alert (where applicable) **You are about to purchase a product that is not simple and may be difficult to understand]**

What is this product?

Type

Term

Objectives

Intended retail investor

[Insurance benefits and costs]

What are the risks and what could I get in return?

Risk Indicator	Description of the risk-reward profile Summary Risk Indicator SRI template and narratives as set out in Annex III, including on possible maximum loss: can I lose all invested capital? Do I bear the risk of incurring additional financial commitments or obligations? Is there capital protection against market risk?

Performance Scenarios	Performance Scenario templates and narratives as set out in Annex V Scenarios including where applicable information on conditions for returns to retail investors or built-in performance caps, and statement that the tax legislation of the retail investor's home Member State may have an impact on actual payout

What happens if [PRIIP Manufacturer] is unable to pay out?

Information on whether there is a guarantee scheme, the name of the guarantor or investor compensation scheme operator, including the risks covered and those not covered.

What are the costs?

Narratives on information to be included on other distribution costs

Costs over Time	Template and narratives according to Annex VII
Composition of Costs	Template and narratives according to Annex VI

How long should I hold it and can I take money out early?

Recommended [required minimum] holding period: [x]

Information on whether one can disinvest before maturity, the conditions for this, and applicable fees and penalties if any. Information on the consequences of cashing-in before the end of the term or before the end of the recommended holding period.

How can I complain?

Other relevant information

Where applicable a short description of the information published on past performance

”;

ANNEX II

Annex II to Delegated Regulation (EU) 2017/653 is amended as follows:

(1) in Part 1, point 2 is replaced by the following:

"2. The PRIIP shall be assigned a MRM class according to the following table:

MRM class	VaR-equivalent volatility (VEV)
1	< 0,5 %
2	≥ 0,5 % and <5,0 %
3	≥ 5,0 % and <12 %
4	≥ 12 % and <20 %
5	≥ 20 % and <30 %
6	≥ 30 % and <80 %
7	≥ 80 %

";

(2) in Part 1, point 13 is replaced by the following:

13. The VEV is given by:

$$VEV = \left\{\sqrt{\left(3{,}842 - 2 * (VaR_{RETURN\,SPACE})\right)} - 1{,}96\right\} / \sqrt{T}$$

where T is the length of the recommended holding period in years.

(3) in Part 1, point 17 is replaced by the following:

13. The VEV is given by:

$$VEV = \left\{\sqrt{\left(3{,}842 - 2 * In(VaR_{PRICE\,SPACE})\right)} - 1{,}96\right\} / \sqrt{T}$$

where T is the length of the recommended holding period in years. Only in cases where the product is called or cancelled before the end of the recommended holding period according to the simulation, the period in years until the call or cancellation is used in the calculation.

(4) in Part 1, point (ix) of point (a) of point 23, is replaced by the following:

(ix) projecting the returns onto the 3 principal eigenvectors calculated in the previous step by multiplying the NxM matrix of returns obtained in point (v) by the Mx3 matrix of eigenvectors obtained in point (viii);

(5) in Part 3, the following point 52a is inserted:

"52a. Where the PRIIP manufacturer considers that the summary risk indicator number assigned following the aggregation of market and credit risk in accordance with point 52 of this Annex does not adequately reflect the risks of the PRIIP, that PRIIP manufacturer may decide to increase that number. The decision making process for such an increase shall be documented.";

ANNEX III

Annex III to Delegated Regulation (EU) 2017/653 is amended as follows:

(1) point 1 is replaced by the following:

"1. PRIIP manufacturers shall use the format below for the presentation of the SRI in the key information document. The relevant number shall be highlighted as shown depending on the SRI for the PRIIP.

(2) point 3 is replaced by the following:

"3. Immediately below the SRI, the time frame of the recommended holding period shall be indicated. In addition, a warning shall be included directly below the SRI as set out in the above template in the following cases:

(a) where the risk of the PRIIP is considered to be significantly higher if the holding period is different;

(b) where a PRIIP is considered to have a materially relevant liquidity risk, whether this is contractual in nature or not;

(c) where a PRIIP is considered to be illiquid whether this is contractual in nature or not.";

(3) the following point 6a is inserted:

"6a. For Category 1 PRIIPs as defined in point 4(b) of Annex II, the terminology used for the narratives explanations accompanying the SRI shall be adjusted, where appropriate, to reflect the specific features of the PRIIP, such as the absence of an initial investment amount."

ANNEX IV

Annex IV to Delegated Regulation (EU) 2017/653 is replaced by the following:

"ANNEX IV

PERFORMANCE SCENARIOS

Number of scenarios

1. The performance scenarios under this Regulation which shall show a range of possible returns, shall be the following:

   (a) a favourable scenario;

   (b) a moderate scenario;

   (c) an unfavourable scenario;

   (d) a stress scenario.

2. The stress scenario shall set out significant unfavourable impacts of the PRIIP not covered in the unfavourable scenario referred to in point 1(c) of this Annex. The stress scenario shall show intermediate periods where those periods are shown for the performance scenarios under point 1(a) to (c) of this Annex.

3. An additional scenario for insurance-based investment products shall be based on the moderate scenario referred to in point 1(b) of this Annex, where the performance is relevant in respect of the return of the investment.

4. The minimum investment return shall also be shown not taking into account the situation where the PRIIP manufacturer or party bound to make, directly or indirectly, relevant payments to the retail investor, is not able to pay.

Calculation of unfavourable, moderate and favourable scenario values for the recommended holding period for Category 2 PRIIPs

Case 1: PRIIPs referred to in point 1 of Annex VIII with sufficient historical data

5. The following rules shall apply to PRIIPs referred to in point 1 of Annex VIII, where, at the time the calculation is made, the following criteria are satisfied in relation to the length of yearly consecutive historical values for the PRIIP:

   (a) it is greater than 10;

   (b) it is five years longer than the length of the PRIIP's recommended holding period.

6. Where the recommended holding period is five years or less, the unfavourable, moderate and favourable scenarios shall be calculated over the last 10 years from when the calculation is made. Where the recommended holding period is more than five years, the unfavourable, moderate and favourable scenarios shall be calculated over a time period

which is equal to the recommended holding period plus five years from when the calculation is made.

7. The calculation of the unfavourable, moderate, and favourable scenarios shall include the following steps:

   (a) Within the time period specified in point 6 of this Annex, identification of all overlapping sub intervals individually equal in length to the duration of the recommended holding period, and which start or end in each of the months, or at each of the valuation dates for PRIIPs with a monthly valuation frequency, which are contained within that period;

   (b) For PRIIPs with a recommended holding period of more than one year, identification of all overlapping sub intervals individually equal or shorter in length to the duration of the recommended holding period, but equal to or longer than one year, and which end at the end the time period identified in point 6 of this Annex;

   (c) For each sub interval referred to in points (a) and (b), calculation of the performance of the PRIIP according to the following:

      (i) based on the performance of the PRIIP during the exact duration of each sub interval;

      (ii) net of all applicable costs;

      (iii) on the basis that any distributable income of the PRIIP has been reinvested;

      (iv) by using a linear transformation to obtain the performance in sub intervals shorter than the recommended holding period, in order to render all sub-intervals of comparable length;

   (d) Rank the sub intervals identified in accordance with point (a) according to the performance calculated in accordance with (c), to identify from within those sub intervals the median and best sub intervals in terms of performance;

   (e) Rank together the sub intervals identified in accordance with points (a) and (b) according to the performance calculated in (c), to identify from within those sub intervals the worst sub interval in terms of performance.

8. The unfavourable scenario shall represent the worst evolution of the PRIIP's value according to point 7(e) of this Annex.

9. The moderate scenario shall represent the median evolution of the PRIIP's value according to point 7(d) of this Annex.

10. The favourable scenario shall represent the best evolution of the PRIIP's value according to point 7(d) of this Annex.

11. The scenarios shall be calculated at least on a monthly basis.

Case 2: PRIIPs referred to in point 1 of Annex VIII without sufficient historical data and with the possibility to use a benchmark

12. For PRIIPs referred to in point 1 of Annex VIII, the unfavourable, moderate and favourable scenarios shall be calculated as specified in points 6 to 11 of this Annex, using data of a benchmark to supplement the values for the PRIIP less all applicable costs, where:

    (a) the length of PRIIP values do not meet the criteria set out in point 5 of this Annex;

    (b) the benchmark is appropriate to estimate performance scenarios in accordance with the criteria specified in point 16 of this Annex; and

    (c) there is historical data for the benchmark that meets the criteria set out in point 5 of this Annex.

    If the information on the objectives of the PRIIP makes reference to a benchmark, that benchmark shall be used, provided the conditions in the first sub paragraph are met.

Case 3: PRIIPs referred to in point 1 of Annex VIII without sufficient historical data and with no benchmark, or with a benchmark without sufficient historical data, or any other Category 2 PRIIP

13. For PRIIPs referred to in point 1 of Annex VIII that are not covered by case 1 or case 2 above or any other Category 2 PRIIP, the unfavourable, moderate and favourable scenarios shall be calculated as specified in points 6 to 11 of this Annex using benchmarks regulated by Regulation (EU) 2016/1011[53] that represent the asset classes in which the PRIIP invests or the underlying investments to which the PRIIP is exposed, to supplement the values for the PRIIP or the benchmark referred to in point 12 of this Annex. All asset classes in which the PRIIP could invest more than 25 % of its assets or underlying investments that represent more than 25 % of the exposure shall be considered. Where such a benchmark does not exist, an appropriate proxy shall be used.

14. If the PRIIP invests in different asset types or offers exposure to different types of underlying investments and more than one benchmark as referred to in point 13 of this Annex has been identified, the scenarios shall be calculated using a "composite benchmark", considering the weights of the estimated investment in each type of assets or underlying investments.

15. For Category 2 PRIIPs for which there is not an appropriate benchmark or proxy with sufficient historical data which meets the criteria set out in point 5 of this Annex for the PRIIP, performance scenarios shall be calculated in accordance with points 21 to 27 of this Annex using 15 years of historical returns of the PRIIP or an appropriate benchmark or proxy.

[53] Regulation (EU) 2016/1011 of the European Parliament and of the Council of 8 June 2016 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014 (OJ L 171, 29.6.2016, p. 1).

Cases 2 and 3: Use of appropriate benchmarks or proxies

16. In order to assess whether the use of a particular benchmark or proxy is appropriate to estimate the performance scenarios, PRIIP manufacturers shall use the following criteria, provided that such criteria are consistent with the objectives of the PRIIP and the type of assets in which the PRIIP invests or the underlying investments to which the PRIIP offers exposure and are relevant for the PRIIP:

    (a) risk-return profile where the benchmark or proxy and the PRIIP fall into the same category of i) SRI or ii) volatility and expected return or both;

    (b) expected return;

    (c) asset allocation composition (where the asset composition of the PRIIP reflects a composite index, the reference benchmark or proxy for the purpose of the calculation of performance scenarios shall consistently reflect the weights of the composite index);

    (d) potential assets in which the PRIIP invests, consistent with the investment policy;

    (e) exposure to underlying asset classes;

    (f) geographical exposures;

    (g) sector exposures;

    (h) income distribution of the PRIIP;

    (i) liquidity measures (e.g.: daily trading volumes, bid-ask spreads etc.);

    (j) duration;

    (k) credit rating category;

    (l) volatility or historical volatility or both.

    PRIIP manufacturers may use criteria additional to those listed in the first subparagraph provided they demonstrate that those additional criteria are relevant in terms of the objectives of the PRIIP and the type of assets in which the PRIIP invests or the type of underlying investments to which the PRIIP offers exposure.

17. PRIIP manufacturers shall be able to demonstrate the consistency of the benchmarks with the objectives of the PRIIP and shall document their decision, including a clear justification of the benchmark used.

Calculation of the stress scenario for Category 2 PRIIPs

18. For Category 2 PRIIPs, the calculation of the stress scenario shall have the following steps:

    (a) Identify a sub interval of length *w* which corresponds to the following intervals:

1 year	> 1 year

Daily prices	21	63
Weekly prices	8	16
Monthly prices	6	12

(b) Identify for each sub interval of length w the historical lognormal returns r_t, where $t = t_1, t_2, \ldots, t_w$.

(c) Measure the volatility based on the formula below starting from $t_i = t_1$ rolling until $t_i = t_{H-w+1}$ where H is the number of historical observations in the period:

$$^{w}{}_{ti}\sigma_S = \sqrt{\frac{\sum_{t_i}^{t_{i+w-1}} \left(r_{ti} - {}^{t_{i+w-1}}_{t_i}M_1\right)^2}{M_w}}$$

Where M_w is the count of number of observations in the sub interval and ${}^{t_{i+w-1}}_{t_i}M_1$ is the mean of all the historical lognormal returns in the corresponding sub interval.

(d) Infer the value that corresponds to the 99th percentile for 1 year and the 95th percentile for the other holding periods. This value shall be the stressed volatility ${}^{w}\sigma_S$.

19. For Category 2 PRIIPs, the expected values at the end of the recommended holding period for the stress scenario shall be:

$$Scenario_{Stress} = e^{\left[{}^{W}\sigma_S * \sqrt{N} * \left(z_\alpha + \left[\frac{(z_\alpha^2 - 1)}{6}\right] * \frac{\mu_1}{\sqrt{N}} + \left[\frac{(z_\alpha^3 - 3z_\alpha)}{24}\right] * \frac{\mu_2}{N} - \left[\frac{(2z_\alpha^3 - 5z_\alpha)}{36}\right] * \frac{\mu_1{}^2}{N}\right) - 0.5\,{}^{W}\sigma_S^2 N\right]}$$

Where:

(a) N is the number of trading periods in the recommended holding period, and where the other terms are defined in point 12 of Annex II;

(b) z_α is a proper selected value of the PRIIP at the extreme percentile that corresponds to 1 % for 1 year and to 5 % for the other holding periods.

20. The stress scenario value shown shall not be better than the value of the unfavourable scenario.

Calculation of scenario values for the recommended holding period for certain Category 1 PRIIPs, Category 3 PRIIPs and Category 4 PRIIPs

21. The favourable scenario shall be the value of the PRIIP at the 90^{th} percentile of an estimated distribution of outcomes over the recommended holding period less all applicable costs.

22. The moderate scenario shall be the value of the PRIIP at the 50th percentile of an estimated distribution of outcomes over the recommended holding period less all applicable costs.

23. The unfavourable scenario shall be the value of the PRIIP value at the 10th percentile of an estimated distribution of outcomes over the recommended holding period less all applicable costs.

24. Where the PRIIP manufacturer considers that there is a material risk that these scenarios may provide retail investors with inappropriate expectations about the possible returns they may receive, they may use lower percentiles than those specified in points 21 to 23 of this Annex.

25. For Category 3 PRIIPs, the method to derive the estimated distribution of the PRIIP´s outcomes over the recommended holding period shall be identical to the method specified in points 19 to 23 of Annex II, except that the expected return of each asset shall be the return observed over the period calculated without discounting the expected performance using the expected risk-free discount factor.

26. For Category 3 PRIIPs, the following adjustments shall be made for the calculation of the stress scenario compared to the calculation for Category 2 PRIIPs:

    (a) Infer the stress volatility ${}^{W}\sigma_S$ based on the methodology defined in points 18 (a), (b) and (c) of this Annex;

    (b) Rescale historical returns r_t, based on the formula set out below;

$$r_t^{adj} = r_t * \frac{{}^{W}\sigma_S}{\sigma}$$

    (c) Conduct bootstrapping on r_t^{adj} as described in point 22 of Annex II;

    (d) Calculate the return for each contract by summing returns from selected periods and correcting these returns to ensure that the expected return measured from the simulated return's distribution is as follows:

$$E^*\left[r_{bootstrapped}\right] = -0.5\,{}^{W}\sigma_S^2 N$$

    where $E^*\left[r_{bootstrapped}\right]$ is the new simulated mean.

27. For Category 3 PRIIPs, the stress scenario shall be the value of the PRIIP at the extreme z_α percentile as defined in point 19 of this Annex of the simulated distribution as set out in point 26 of this Annex.

28. For Category 4 PRIIPs, the method set out in point 27 of Annex II shall be used in respect of those factors that are not observed in the market, combined as necessary with the method for Category 3 PRIIPs. The relevant methods for Category 2 PRIIPs set out in points 5 to 20 of this Annex and the relevant methods for Category 3 PRIIPs set out in points 21 to 27 of this Annex shall be used for the relevant components of the PRIIP where the PRIIP combines different components. The performance scenarios shall be a

weighted average of the relevant components. Product features and capital guarantees shall be taken into consideration in the performance calculations.

29. For Category 1 PRIIPs as defined in point 4(a) of Annex II, and Category 1 PRIIPs as defined in point 4(b) of Annex II that are not traded on a regulated market or on a third-country market considered to be equivalent to a regulated market in accordance with Article 28 of Regulation (EU) No 600/2014, performance scenarios shall be calculated in accordance with points 21 to 27 of this Annex.

Calculation of scenario values for the recommended holding period for other types of Category 1 PRIIPs

30. For Category 1 PRIIPs that are futures, call options and put options traded on a regulated market or on a third-country market considered to be equivalent to a regulated market in accordance with Article 28 of Regulation (EU) No 600/2014, performance scenarios shall be shown in the form of pay-off structure graphs. A graph shall be included to show performance for all scenarios for the different levels of the underlying value. The horizontal axis of the graph shall show the various possible prices of the underlying value and the vertical axis shall show the profit or loss at the different prices of the underlying value. For every price of the underlying value, the graph shall show the resulting profit or loss and at which price of the underlying value the profit or loss shall be zero.

31. For Category 1 PRIIPs as defined in point 4(c) of Annex II a reasonable and conservative best estimate of the expected values for the performance scenarios set out in point 1(a), (b) and (c) of this Annex at the end of the recommended holding period shall be provided.

    The scenarios selected and shown shall be consistent with and complement the other information contained in the key information document, including the overall risk profile for the PRIIP. The PRIIP manufacturer shall ensure the consistency of the scenarios with internal product governance conclusions, including amongst others, any stress-testing undertaken by the PRIIP manufacturer for the PRIIP, and data and analysis used for the purposes of producing the other information contained with the key information document.

    The scenarios shall be selected to give a balanced presentation of the possible outcomes of the PRIIP in both favourable and unfavourable conditions, but only scenarios that can be reasonably expected shall be shown. The scenarios shall not be selected so as give undue prominence to favourable outcomes at the expense of unfavourable ones.

Calculation of scenario values for intermediate holding periods

32. For PRIIPs with a recommended holding period between 1 and 10 years, performance shall be shown at two different holding periods: at the end of the first year and at the end of the recommended holding period.

33. For PRIIPs with a recommended holding period of 10 years or more, performance shall be shown at three holding periods: at the end of the first year, after half of the

recommended holding period rounded up to the end of the nearest year, and at the end of the recommended holding period.

34. For PRIIPs with a recommended holding period of one year or less, no performance scenarios for intermediate holding periods shall be shown.

35. For Category 2 PRIIPs, the values to be shown for the intermediate periods for the unfavourable, moderate and favourable scenarios shall be calculated in accordance with points 5 to 14 of this Annex, using the time period specified in point 6, but based on the outcomes achieved over the intermediate holding period.

36. For Category 2 PRIIPs, the values to be shown for the intermediate periods for the stress scenario shall be calculated using the formulas in points 18 and 19 of this Annex with the N defined to be the number of trading periods from the start date to the end date of the intermediate period. Point 20 of this Annex shall also apply to the intermediate periods.

37. For PRIIPs as referred to in points 15 and 29 of this Annex, Category 3 PRIIPs and Category 4 PRIIPs, unless point 38 of this Annex applies, the scenario values to be shown for the intermediate holding period shall be estimated by the PRIIP manufacturer in a manner consistent with the estimation at the end of the recommended holding period.

38. For Category 1 PRIIPs that are futures, call options and put options traded on a regulated market or on a third-country market considered to be equivalent to a regulated market in accordance with Article 28 of Regulation (EU) No 600/2014, or for PRIIPs referred to in point 90(d) of Annex VI, performance scenarios may be shown at the end of the recommended holding period only.

General requirements

39. The performance scenarios of the PRIIP shall be calculated as net of all applicable costs in accordance with Annex VI for the scenario and holding period being presented.

40. Performance scenarios shall be calculated using amounts consistent with those used for the calculation of costs as specified in points 90 and 91 of Annex VI.

41. For those PRIIPs that are forward contracts, future contracts, contracts for difference or swaps, performance scenarios shall be calculated assuming that the amount specified in point 40 is the notional amount.

42. Performance scenarios shall be presented in monetary units. Figures shall by default be rounded to the nearest 10 EUR or relevant currency, unless there are specific payout conditions, such that it could be misleading to round the figures to the nearest 10 EUR in which case the PRIIP manufacturer may present figures to the nearest Euro. The monetary figures shall show the sum of the amounts that would be received by the retail investor (net of costs) during the holding period, comprising:

(a) the payments due at the end of the holding period, including the capital reimbursed;

(b) the coupons or other amounts received before the end of the holding period, without assuming reinvestment of those amounts.

43. For PRIIPs that are forward contracts, future contracts, contracts for difference or swaps, performance scenarios in monetary units shall show the profit or loss obtained in the holding period.

44. Performance scenarios shall also be presented in percentage terms, as the average annual return of the investment. That figure shall be calculated considering the scenario value as numerator and the initial investment amount or the price paid as denominator in accordance with the following formula:

(scenario value/ initial investment)^(1/T) – 1, if T > 1. Where T is the length of the holding period in years

45. For recommended holding periods shorter than one year, performance scenarios in percentage terms shall reflect the projected return over that period, non-annualised.

46. For PRIIPs that are forward contracts, future contracts, contracts for difference, or swaps, the percentage return shall be calculated considering the notional amount of the contract and a footnote shall be added to explain that calculation. The formula for the calculation shall be:

(Net profit or loss / Notional Amount)^(1/T) -1, if T>1.

The footnote shall indicate that the potential return is calculated as a percentage over the notional amount.

47. For insurance based investment products, the following shall apply in addition to the methods referred above including under point 28 of this Annex when calculating the performance scenarios in respect of the investment:

(a) future profit participation shall be taken into account;

(b) assumptions on future profit participation shall be consistent with the assumption on the annual rates of return of the underlying assets;

(c) assumptions on how future profits are shared between the PRIIP manufacturer and the retail investor and other assumptions on future profit sharing shall be realistic and in line with the current business practice and business strategy of the PRIIP manufacturer. Where there is sufficient evidence that the undertaking will change its practices or strategy, the assumptions on future profit sharing shall be consistent with the changed practices or strategy. For life insurers within the scope of Directive 2009/138/EC, those assumptions shall be consistent with the assumptions on future management actions used for the valuation of technical provisions in the Solvency II-balance-sheet;

(d) where a component of the performance relates to profit participation that is payable on a discretionary basis, this component shall only be assumed in the favourable performance scenarios;

(e) the performance scenarios shall be calculated on the basis of the investment amounts set out in point 40 of this Annex.”;

ANNEX V

Annex V to Delegated Regulation (EU) 2017/653 is replaced by the following:

"ANNEX V

METHODOLOGY FOR THE PRESENTATION OF PERFORMANCE SCENARIOS

PART 1

General presentation specifications

1. The performance scenarios shall be presented in a way that is accurate, fair, clear and not misleading, and that is likely to be understood by the average retail investor.

2. In all cases, the following narrative explanations from Part 2 of this Annex shall be included:

   (a) element A;

   (b) element B, which shall appear prominently above the performance scenario table or graph.

3. For all PRIIPs except Category 1 PRIIPs referred to in point 30 of Annex IV:

   (a) element C in Part 2 of this Annex shall appear prominently above the performance scenario table;

   (b) information on the minimum investment return shall be stated within the performance scenario table and where appropriate element G in Part 2 of this Annex shall be included. Where a minimum return is guaranteed this shall be stated in monetary amounts for the holding periods for which the guarantee applies. Where no minimum guaranteed return applies, or where the guarantee is only applicable for some but not all holding periods, a narrative shall be used for the relevant holding periods stating that the retail investor may lose some or all of the amount invested, or, where applicable, that the retail investor may lose more than they invested as set out in Part 3 of this Annex.

4. Where a stress scenario is shown, narrative element D in Part 2 of this Annex shall be included.

5. For Category 2 PRIIPs, except those referred to in point 15 of Annex IV, narrative explanations shall be included for the unfavourable, moderate and favourable scenarios using element E in Part 2 of this Annex.

6. For Category 1 PRIIPs except those referred to in point 30 of Annex IV, Category 2 PRIIPs referred to in point 15 of Annex IV, Category 3 PRIIPs and Category 4 PRIIPs, a brief explanation of the scenarios shown shall be included with a maximum of 300 characters in plain language.

7. Elements H, I, J and K in Part 2 of this Annex shall also be included in the case of Category 1 PRIIPs referred to in point 30 of Annex IV.

8. Intermediate holding periods shall be shown in accordance with points 32, 33 and 34 of Annex IV. The interim periods may differ depending on the length of the recommended holding period.

9. For PRIIPs that do not show performance scenarios at intermediate holding periods narrative element F in Part 2 of this Annex shall be included where relevant.

10. Unless otherwise specified, for all PRIIPs except for Category 1 PRIIPs referred to in point 30 of Annex IV, PRIIP manufacturers shall use the templates set out in Part 3 of this Annex to present the performance scenarios, depending on whether it is a single investment or premium PRIIP, a regular payment or premium PRIIP, or a PRIIP as referred to in point 76c of Annex VI.

11. The term “exit” shall be used in the performance scenario table to represent the end of the investment, unless this term may be misleading for specific types of PRIIPs, in which case an alternative term may be used, such as “terminate” or “surrender”.

12. For Category 1 PRIIPs as defined in point 4(b) of Annex II, the terminology used shall be adjusted where appropriate to reflect the specific features of the PRIIP, such as to refer to the notional amount of the PRIIP.

13. For insurance-based investment products, additional rows are included in respect of the biometric risk premium and a scenario for the insurance benefits, as illustrated in templates A and B in Part 3 of this Annex. Returns for that scenario shall only be shown in monetary terms.

14. For PRIIPs that involve regular payments or premiums, the templates shall also include information on the accumulated investment amount and where applicable the accumulated biometric risk premium, as illustrated in template B in Part 3 of this Annex.

15. For PRIIPs which are intended to be held for life, the recommended holding period stated in the performance scenarios may indicate that the PRIIP is intended to be held for life and state the number of years that have been used as an example for the calculation.

16. For PRIIPs that are immediate annuities or other PRIIPs that are only intended to pay-out upon the occurrence of the insured event, the performance scenario table shall reflect the following, as appropriate:

    (a) the survival scenarios at the recommended holding period shall reflect the accumulated amount of payments made to the retail investor;

    (b) where intermediate survival scenarios are included, these shall reflect the surrender values and accumulated amount of payments made to the retail investor at that time;

    (c) the insurance event scenarios, such as upon death, shall show the lump sum payment received by the beneficiaries at that time.

17. Where the PRIIP is called or cancelled before the end of the recommended holding period according to the simulation, the presentation of the performance scenarios shall be adjusted accordingly, as illustrated in template C in Part 3 of this Annex, and explanatory notes shall be added, in a way that it is clear whether a certain scenario includes an early call or cancellation and that no reinvestment assumption has been applied. In scenarios

where the PRIIP is automatically called or cancelled the figures shall be shown in the column "If you exit at call or maturity" of template C in Part 3 of this Annex. The time periods shown for the intermediate holding periods shall be the same for the different performance scenarios and shall be based on the recommended holding period if the PRIIP is not called, which is expected to be aligned with its maturity. Figures for intermediate holding periods shall only be shown for scenarios where the PRIIP has not yet been called or cancelled before or at the end of that intermediate holding period and shall include any exit costs that apply at that time. If the PRIIP would have been called before or at the end of that intermediate holding period based on the simulation no figures shall be shown at that time period.

PART 2

Prescribed narrative elements

[Element A] The figures shown include all the costs of the product itself, (*where applicable*) [but may not include all the costs that you pay to your advisor or distributor / and includes the costs of your advisor or distributor]. The figures do not take into account your personal tax situation, which may also affect how much you get back.

[Element B] What you will get from this product depends on future market performance. Market developments in the future are uncertain and cannot be accurately predicted.

[Element C] [The unfavourable, moderate, and favourable scenarios shown are illustrations using the worst, average, and best performance of [the product / a suitable benchmark] over the last [x] years.] (*for Category 2 PRIIPs except those referred to in point 15 of Annex IV*) [The scenarios shown are illustrations based on results from the past and on certain assumptions] (*for other types of PRIIPs*). Markets could develop very differently in the future.

[Element D] The stress scenario shows what you might get back in extreme market circumstances.

[Element E] This type of scenario occurred for an investment [*add reference to benchmark where applicable*] between [*add dates in years*]

[Element F] This product cannot be [easily] cashed in. If you exit the investment earlier than the recommended holding period [you do not have a guarantee](*where there is a guarantee only at the recommended holding period*) [and] [you [will/may] have to pay extra costs] (*where there are exit costs*).

[Element G] The return is only guaranteed if you [*describe relevant conditions or refer to where these conditions are described in the key information document, such as the narrative explanations provided in accordance with Annex III*].

[Element H] This graph illustrates how your investment could perform. You can compare it with the pay-off graphs of other derivatives.

[Element I] The graph presented gives a range of possible outcomes and is not an exact indication of what you might get back. What you get will vary depending on how the underlying will develop. For each value of the underlying, the graph shows what the profit or loss of the product would be. The horizontal axis shows the various possible prices of the underlying value on the expiry date and the vertical axis shows the profit or loss.

[Element J] Buying this product holds that you think the underlying price will [increase/decrease].

[Element K] Your maximum loss would be that you will lose all your investment (premium paid).

PART 3

Templates

Template A: Single investment or single premium paid

Recommended holding period:		[ ]		
Example Investment:		[EUR 10 000]		
(Where applicable) **Insurance premium:**		[monetary amount]		
		If you [exit] after 1 year *(where applicable)*	**If you [exit] after [ ]** *(where applicable)*	**If you [exit] after** [recommended holding period]
[Survival] Scenarios				
Minimum	**[Monetary amount]** or **[There is no minimum guaranteed return [if you [exit] before [...years/months/days]]** *(where applicable)*. **You could lose some or all of your investment [or have to make further payments to cover losses]** *(where applicable)*]			
Stress	***What you might get back after costs*** Average return each year	[ ] EUR [ ] %	[ ] EUR [ ] %	[ ] EUR [ ] %
Unfavourable	***What you might get back after costs*** Average return each year	[ ] EUR [ ] %	[ ] EUR [ ] %	[ ] EUR [ ] %
Moderate	***What you might get back after costs*** Average return each year	[ ] EUR [ ] %	[ ] EUR [ ] %	[ ] EUR [ ] %
Favourable	***What you might get back after costs*** Average return each year	[ ] EUR [ ] %	[ ] EUR [ ] %	[ ] EUR [ ] %
(Where applicable) **[Death] Scenario**				
[Insured event]	***What your beneficiaries might get back after costs***	[ ] EUR	[ ] EUR	[ ] EUR

Template B: Regular investments or premiums paid

Recommended holding period: **Example Investment:** *(Where applicable)* **Insurance premium:**		[ ] [EUR 1 000] per year [monetary amount] per year		
		If you [exit] after 1 year *(where applicable)*	**If you [exit] after [ ]** *(where applicable)*	**If you [exit] after [recommended holding period]**
[Survival] Scenarios				
Minimum	**[Monetary amount]** or **[There is no minimum guaranteed return [if you [exit] before [...years/months/days]]** *(where applicable)*. **You could lose some or all of your investment [or have to make further payments to cover losses]** *(where applicable)*]			
Stress	***What you might get back after costs*** Average return each year	[ ] EUR [ ] %	[ ] EUR [ ] %	[ ]EUR [ ] %
Unfavourable	***What you might get back after costs*** Average return each year	[ ] EUR [ ] %	[ ] EUR [ ] %	[ ] EUR [ ]%
Moderate	***What you might get back after costs*** Average return each year	[ ] EUR [ ] %	[ ] EUR [ ]%	[ ] EUR [ ] %
Favourable	***What you might get back after costs*** Average return each year	[ ] EUR [ ] %	[ ] EUR [ ] %	[ ] EUR [ ] %
Amount invested over time		[ ] EUR	[ ] EUR	[ ] EUR

(Where applicable) **[Death] Scenario**				
[Insured event]	***What your beneficiaries might get back after costs***	[ ] EUR	[ ] EUR	[ ] EUR
Insurance premium taken over time		[ ] EUR	[ ] EUR	[ ] EUR

Template C: PRIIPs referred to in point 76c of Annex VI (Autocallables)

Recommended holding period:		**Until the product is called or matures** This may be different in each scenario and is indicated in the table		
Example Investment:		[EUR 10 000]		
		If you [exit] after 1 year *(where applicable)*	**If you [exit] after [ ]** *(where applicable)*	**If you [exit] at call or maturity**
Scenarios				
Minimum	**[Monetary amount]** or **[There is no minimum guaranteed return [if you [exit] before […years/months/days]]** *(where applicable)*. **You could lose some or all of your investment [or have to make further payments to cover losses]** *(where applicable)*]			
Stress (product ends after [ ])	***What you might get back after costs*** Average return each year	[ ] EUR [ ] %	[ ] EUR [ ] %	[ ] EUR [ ] %
Unfavourable (product ends after [ ])	***What you might get back after costs*** Average return each year	[ ] EUR [ ] %	[ ] EUR [ ] %	[ ] EUR [ ] %
Moderate (product ends after [ ])	***What you might get back after costs*** Average return each year	[ ] EUR [ ] %	[ ] EUR [ ] %	[ ] EUR [ ] %
Favourable (product ends after [ ])	***What you might get back after costs*** Average return each year	[ ] EUR [ ] %	[ ] EUR [ ] %	[ ] EUR [ ] %

”;

ANNEX VI

Annex VI to Delegated Regulation (EU) 2017/653 is amended as follows:

(1) in point 3, point (a) is replaced by the following:

"(a) distribution fee, to the extent that the amount is known to the UCITS management company or AIFM; if the actual amount is not known to the UCITS management company or AIFM, the maximum of the possible known distribution costs for the specific PRIIP shall be shown;";

(2) point 5 is amended as follows:

(a) in point (a), point (i) is replaced by the following :

"the UCITS management company or AIFM;";

(b) point (g) is replaced by the following:

"(g) any costs of distribution or marketing, to the extent that the amount is known to the UCITS management company or AIFM; if the actual amount is not known to the UCITS management company or AIFM, the maximum of the possible known distribution costs for the specific PRIIP shall be shown;";

(c) points (j) and (k) are replaced by the following:

"(j) payments to third parties to meet costs necessarily incurred in connection with the acquisition or disposal of any asset in the fund's portfolio (including transaction costs as referred to in points 7 to 23c of this Annex);

(k) the value of goods or services received by the UCITS management company or AIFM or any connected person in exchange for placing of dealing orders;";

(d) in point (l), point (i) is replaced by the following:

"(i) where the underlying is a UCITS or AIF, its most recently available summary cost indicator figure shall be used, where necessary adjusted to show the actual distribution fee incurred; that figure shall be based either on the figure published by the UCITS or AIF or its operator or the UCITS management company or AIFM, or a figure calculated by a reliable third-party source if more up-to-date than the published figure;";

(e) in point (m), point (i) is replaced by the following:

“(i) the most recently available summary cost indicator of the underlying PRIIP shall be included in the calculation, and, where necessary, adjusted to show the actual entry fee incurred.”;

(f) point (q) is replaced by the following:

“(q) implicit costs incurred by structured investment funds as referred to in Section II of this Annex, and notably points 36 to 46 of this Annex;”

(3) in point 6, point (a) is replaced by the following:
“(a) a performance–related fee payable to the UCITS management company or the AIFM or any investment adviser, including performance fees as referred to in point 24 of this Annex;”;

(4) points 7 and 8 are replaced by the following:

“7. Transaction costs shall be calculated on an annualised basis, based on an average of the transaction costs incurred by the PRIIP over the previous three years, with the average taken from all transactions. Where the PRIIP has been operating for less than three years, transaction costs shall be calculated using the methodology set out in points 21-23 of this Annex.

8. The aggregate transaction costs for a PRIIP shall be calculated as the sum of the transaction costs as calculated in accordance with points 8a to 23a of this Annex in the base currency of the PRIIP for all individual transactions undertaken by the PRIIP in the specified period. This sum shall be converted into a percentage by dividing by the average net assets of the PRIIP over the same period.”;

(5) the following point 8a is inserted:

“8a. A minimum of explicit transaction costs, as referred to in point 11a of this Annex, shall be disclosed.”;

(6) point 10 is replaced by the following:

“10. Estimates of transaction costs using the methodology described below in points 19 and 20 of this Annex shall be used for investments in other instruments or assets. Transaction costs associated with non-financial assets shall be calculated in accordance with point 20a of this Annex.”;

(7) in point 11, the following point (c) is added:

“(c) The anti-dilution benefit shall only be taken into account to the extent that the benefit does not take the total transaction costs below explicit transaction costs.”;

(8) the following points 11a and 11b are inserted:

"11a. Explicit costs include costs and charges incurred by the PRIIP, and paid out of retail investors' financial investment in the PRIIP, in order to acquire or dispose of the underlying assets of the PRIIP, such as but not limited to commissions paid to brokers or other intermediaries, stamp duty or market taxes, contract fees and execution fees for OTC derivatives, where relevant.

11b. Aggregate explicit costs shall be calculated as the sum of such costs incurred from all transactions undertaken by the PRIIP over the previous three years. This sum shall be converted into a percentage by dividing by the average net assets of the PRIIP over the same period. The minimum explicit costs to be disclosed shall be calculated on an annualised basis based on an average of explicit costs incurred by the PRIIP over the previous three years, with the average taken from all transactions.";

(9) points 14 and 15 are replaced by the following:

"14. The arrival price shall be determined as the mid-market price of the investment at the time when the order to transact is transmitted to another person. For orders that are transacted on a day that is not the day that the order was originally transmitted to another person, the arrival price shall be determined as the opening price of the investment on the day of the transaction or, where the opening price is not available, the previous closing price. Where a price is not available at the time when the order to transact is transmitted to another person, the arrival price shall be determined as the most recently available price or, where a recent price is not available, a justifiable independent price or, where a justifiable independent price is not available, the opening price on the day of the transaction or, where the opening price is not available, the previous closing price. Where an order is executed without being transmitted to another person, the arrival price shall be determined as the mid-market price of the investment at the time when the transaction was executed.

15. Where information about the time when the order to transact is transmitted to another person is not available (or not available to a sufficient level of accuracy), or where information about the price at that time is not available, a justifiable independent price may be used as the arrival price or, where a justifiable independent price is not available, the opening price of the investment on the day of the transaction or, where the opening price is not available, the previous closing price.";

(10) point 18 is replaced by the following:

"18. When calculating the costs associated with orders that are initially entered into an auction, the arrival price shall be calculated as the mid-price immediately prior to the auction. In calculating the costs associated with orders that are executed at a pre-determined time, the arrival price shall be calculated at that pre-determined time, even if the order has been transmitted for execution before that time.";

(11) after point 18, the following heading and point 18a are inserted:

"*Transactions executed on an over-the-counter basis*

18a. By way of derogation from points 12 to 16 of this Annex for transactions executed on an over-the-counter basis, the actual transaction costs shall be calculated in the following way:

(a) Where a transaction is executed after bid prices and offer prices have been obtained from more than one potential counterparty, the arrival price shall be determined as:

(i) the mid-point between the best bid price and best offer price, where the best bid price is below the best offer price;

(ii) the best bid price in the case of a sale or the best offer price in the case of a purchase, where the best bid price is higher than the best offer price.

(b) Where a transaction is executed without both bid prices and offer prices having been obtained, the transaction cost shall be calculated by multiplying the number of units transacted by half the value of the spread between the bid price and the offer price of the instrument. The value of that spread shall be calculated on the following basis:

(i) from a composite of live market bid/offer quotes, where available;

(ii) where live market quotes are not available they shall be obtained by reference to spreads from either:

- previous transactions in assets bearing similar characteristics (duration, maturity, coupon, call-/put- ability) and liquidity, using transactions previously executed by the PRIIP manufacturer; or
- data verified by an independent third-party or an asset valuation from an independent third party.";

(12) the following point 20a is inserted:

"20a. When calculating the costs associated with non-financial assets, the transaction costs shall be calculated as the aggregate of the actual costs directly associated with that transaction including all charges, commissions, taxes and other payments (such as anti-dilution levies), where those assets are made from the assets of the PRIIP. In the case of cost depreciation over a period specified in the PRIIP's accounting policies, actual costs shall be equal to the cost amounts depreciated over the last three years.";

(13) after point 23, the following heading and point 23a are inserted:

"*Low number of transactions and other similar cases*

23a. By way of derogation from points 12 to 18 of this Annex, transaction costs may be calculated using the methodology described in point 21(b) of this Annex where one or more of the following conditions is met:

(a) a PRIIP undertook a very low number of transactions over the previous three years;

(b) the total value for all transactions undertaken over the previous three years accounts for a very low percentage of the net asset value of the PRIIP;

(c) the estimate of total transaction costs is not significant as compared to the estimate of the total costs.”;

(14) after point 23a, the following heading and points 23b and 23c are inserted:

“Use of data prior to 31 December 2024”

23b. Until 31 December 2024, transaction costs may be calculated using the methodology laid down in point 21 of this Annex for PRIIPs that are UCITS or AIFs for which a Member State applied by 31 December 2021 rules on the format and content of the key information document, as laid down in Articles 78 to 81 of Directive 2009/65/EC.

23c. Until 31 December 2024, where an insurance-based investment product invests in a UCITS or AIF as referred to in point 23b of this Annex, the transaction costs for those investments may be calculated using the methodology laid down in point 21 of this Annex.”;

(15) heading I of Part 2 is replaced by the following:

“**I. AGGREGATED COST FIGURES TO BE INCLUDED IN TABLE 1 “COSTS OVER TIME**” ”;

(16) points 61 and 62 are replaced by the following:

“61. The total costs shall be all the costs known by the PRIIP manufacturer, including exit costs where applicable, for the relevant holding period and shall be calculated as follows:

(a) for investment funds the sum of the costs as referred to in points 1 and 2 of this Annex plus the sum of the costs as referred to in points 4 and 6 of this Annex;

(b) for PRIPs other than investment funds, except PRIIPs referred in point 30 of Annex IV, the sum of the costs as referred to in points 27 and 28 of this Annex plus the sum of the costs as referred to in points 31 and 32 of this Annex;

(c) for PRIIPs referred to in point 30 of Annex IV, the sum of the costs as referred to in points 34 and 35 of this Annex; and

(d) for insurance-based investment products, the sum of the costs as referred to in points 47 and 48 plus the sum of the costs as referred to in points 50 and 51 of this Annex.

62. The table ‘Costs over time’ shall also include aggregated summary cost indicators of the PRIIP calculated as the reduction of the yield due to total costs calculated in accordance with points 70, 71 and 72 of this Annex.”;

(17) heading after point 62 is deleted;

(18) point 63 is replaced by the following:

“63. When an assumption on the performance of the PRIIP is needed for the calculation of the cost figures (for figures in monetary or percentage terms), the performance of the PRIIP used in the calculation shall follow point 70 of this Annex.”;

(19) after point 63, the following heading II of Part 2 and subheading are inserted:

“**II. SUMMARY COST INDICATORS PER TYPE OF COST TO BE INCLUDED IN TABLE 2 “COMPOSITION OF COSTS”**

One-off costs and one-off costs indicators”;

(20) point 64 is replaced by the following:

“64. For the calculation of the entry and exit costs indicators the costs to be considered shall be those identified as entry or exit costs in accordance with Part 1 of this Annex. For insurance-based investment products, the entry and exit costs indicators of the PRIIP shall be the reduction of the annual yield due to entry and exit costs considering the PRIIP is held until the recommended holding period, calculated according to points 70, 71 and 72 of this Annex. For PRIPs, the entry and exit costs indicators shall be the costs in monetary units if the product is held for 1 year (or for the recommended holding period if shorter), calculated assuming a net performance of 0 %.”;

(21) heading after point 64 and points 65, 66 and 67 are replaced by the following:

“*Recurring costs indicators: Transaction costs and other recurring costs*

65. The recurring costs indicators of the PRIIP shall be calculated as follows:

(a) for insurance based investment products, as the reduction of the annual yield due to those costs considering the PRIIP is held until the recommended holding period calculated in accordance with points 70, 71 and 72 of this Annex;

(b) for PRIPs, as the amount of ongoing costs in monetary units if the product is held for one year (or for the recommended holding period if shorter), calculated assuming a net performance of 0 %.

66. For the calculation of the transaction costs indicator, the following costs shall be considered:

(a) for investment funds, the transaction costs referred to in points 7 to 23c of this Annex;

(b) for PRIPs other than investment funds, except PRIIPs referred in point 30 of Annex IV, the costs referred to in point 29(c) of this Annex; and

(c) for insurance-based investment products, the costs referred to in point 52(h) of this Annex.

67. For the calculation of the other recurring costs indicator (referred to in Annex VII as "management fees and other administrative or operating costs"), the costs to be considered are the difference between the total costs according to point 61 of this Annex and the sum of the one-off costs indicator, according to point 64 of this Annex, plus the transaction costs indicator, according to point 66 of this Annex, plus the incidental costs indicators, according to points 68 and 69 of this Annex.";

(22) heading after point 67 and points 68 and 69 are replaced by the following:

"*Incidental costs and incidental costs indicators (performance fees and carried interests)*

68. The incidental costs indicator of the PRIIP shall be callculated as follows:

(a) for insurance-based investment products, as the reduction of the annual yield due to performance fees or carried interest or both considering the PRIIP is held until the recommended holding period calculated according to points 70, 71 and 72 of this Annex;

(b) for PRIPs, as those costs in monetary units if the PRIIP is held for one year (or for the recommended holding period if shorter), calculated assuming a net performance of 0 %.

69. For the calculation of the performance fees the costs according to point 6(a) of this Annex shall be considered for investment funds. For the calculation of the carried interests, the costs according to point 6(b) of this Annex shall be considered for investment funds.";

(23) after point 69 the following heading is inserted:

"III. CALCULATION OF THE COST FIGURES";

(24) points 70 and 71 are replaced by the following:

"70. The reduction in yield mentioned in parts I and II of this Annex shall be calculated using amounts consistent with those specified in points 90 and 91 of this Annex. It shall be calculated as the difference between two percentages *i* and *r* where *r* is the annual internal rate of return in relation to gross payments by the retail investor and estimated benefit payments to the retail investor for the relevant holding period, and *i* is the annual internal rate of return for the respective cost free scenario.

71. The estimation of future benefit payments for the calculation of costs, according to point 70 of this Annex shall be based on the following assumptions:

(a) for PRIIPs as referred to in point 30 of Annex IV, and for all PRIIPs for the cost indicators showing the case that the PRIIP is held for 1 year or less, a standardised net performance of 0% shall be assumed;

(b) except where point (a) applies, the performance of the PRIIP shall be calculated applying the methodology and the underlying hypothesis used for the estimation of the moderate scenario from the performance scenarios section of the key information document;

(c) the benefit payments shall be estimated under the assumption that all costs included in the total costs according to point 61 of this Annex are deducted.";

(25) after point 75, the following heading is inserted:

"Specific requirements for PRIIPs with a recommended holding period of less than one year"

(26) after point 76, heading '**Calculation of ratios**' is deleted;

(27) the following point 76a is inserted:

"76a. The cost indicators in percentage terms shall be calculated considering the aggregated cost in the period divided by the investment amount and a footnote shall be added to explain that calculation and warn about the lack of comparability with annual cost indicators in percentage terms shown for other PRIIPs.";

(28) after point 76a, the following heading and point 76b are inserted:

"Specific requirements for PRIIPs that are forward contracts, future contracts, contracts for difference, or swaps"

76b. The cost indicators in percentage terms shall be calculated considering the notional amount of the contract and a footnote shall be added to explain that calculation.";

(29) after point 76b, the following heading and point 76c are inserted:

"Specific requirements for PRIIPs that may be called or cancelled automatically before the end of the recommended holding period if certain predefined conditions are met";

76c. Cost figures shall be shown assuming two different scenarios:

(a) the PRIIP is called at the first possible date;

(b) the PRIIP reaches maturity.

The cost figures shall be calculated assuming a performance coherent with each scenario.";

(30) points 78, 79 and 80 are replaced by the following:

"78. The cost figures in monetary amounts shall be rounded to the nearest euro. The cost indicators in percentage terms shall be expressed to one decimal place.

79. The cost figures shall be calculated at least once a year.

80. The cost figures shall be based on the most recent cost calculations determined by the PRIIP manufacturer. Without prejudice to point 77 of this Annex, the costs are assessed on an 'all taxes included' basis.

For investment funds, the following shall apply:

(a) a separate calculation performed for each share class, but if the units of two or more classes rank pari passu, a single calculation may be performed for them;

(b) in the case of a fund which is an umbrella, each constituent compartment or sub-fund shall be treated separately for the purpose of this Annex, but any charges attributable to the fund as a whole apportioned among all of the sub-funds on a basis that is fair to all investors.";

(31) point 82 is replaced by the following:

"82. The *ex-post* figures shall be based on recent cost calculations which the PRIIP manufacturer has determined on reasonable grounds to be appropriate for that purpose. The figures may be based on the costs set out in the PRIIP's statement of operations published in its latest annual or half-yearly report, if that statement is sufficiently recent. If it is not sufficiently recent, a comparable calculation based on the costs charged during a more recent 12-month period shall be used instead.";

(32) point 84 is replaced by the following:

"84. Where the costs attributable to an underlying UCITS or AIF are to be taken into account the following shall apply:

(a) the cost indicator of each underlying UCITS or AIF shall be pro-rated according to the proportion of the PRIIP's net asset value which that UCITS or AIF represents at the relevant date, this being the date at which the PRIIP's figures are taken;

(b) all the pro-rated figures shall be added to the total cost figure of the investing PRIIP itself, thus presenting a single total.";

(33) heading II of Part 2 is deleted;

(34) point 90 is replaced by the following:

"90. The tables referred to in Article 5 shall contain an indication of the costs known by the PRIIP manufacturer in monetary and percentage terms for the case that the retail investor invests, respectively 10 000 EUR in the PRIIP (for all PRIIPs except those that are regular premium or regular payment products), or 1 000 EUR yearly (for regular premium or payment PRIIPs). The cost figures shall be shown for different holding periods, including the recommended holding period, as follows:

(a) for PRIIPs with a recommended holding period of one year or less, only costs in case of exit at the end of the recommended holding period shall be shown;

(b) for PRIIPs with a recommended holding period longer than one year and shorter than 10 years, costs shall be shown considering exit at the end of the first year and at the end of the recommended holding period;

(c) for PRIIPs with a recommended holding period of 10 years or more an additional holding period shall be shown, disclosing cost figures in case of exit at half the recommended holding period rounded to the end of the nearest year;

(d) where a PRIIP does not allow exit before the recommended holding period, or where a PRIIP is considered not to have an alternative liquidity facility promoted by the PRIIP manufacturer or a third party, or where there is an absence of liquidity arrangements, or for those PRIIPs as referred to in point 30 of Annex IV, costs may be shown at the end of the recommended holding period only.";

(35) points 92, 93 and 94 are deleted.;

ANNEX VII

Annex VII to Delegated Regulation (EU) 2017/653 is is replaced by the following:

"*ANNEX VII*

PRESENTATION OF COSTS

Immediately under the heading of the section entitled "What are the costs?", the following warning shall be included, unless the PRIIP manufacturer knows that no additional costs will be charged by the person advising on, or selling, the PRIIP:

> "The person advising on or selling you this product may charge you other costs. If so, this person will provide you with information about these costs and how they affect your investment."

In the cost tables set out below, the term "exit" shall be used to represent the end of the investment. Where that term might be misleading for specific types of PRIIPs, an alternative term may be used, such as "terminate" or "surrender".

Table 1 for all PRIIPs except those referred to in point (b) of Article 13 and point 76c of Annex VI (autocallables)

The PRIIP manufacturer shall include the following headings, narratives and the table 1 showing the aggregated cost figures in monetary and percentage terms described in points 61 and 62 of Annex VI with the holding periods referred to in point 90 of that Annex:

"**Costs over time**

The tables show the amounts that are taken from your investment to cover different types of costs. These amounts depend on how much you invest, how long you hold the product [and how well the product does *(where applicable)*]. The amounts shown here are illustrations based on an example investment amount and different possible investment periods.

We have assumed:

- In the first year you would get back the amount that you invested (0 % annual return). For the other holding periods we have assumed the product performs as shown in the moderate scenario
- [EUR 10 000 / 1 000 per year] is invested"

	If you [exit] after 1 year *(where applicable)*	**If you [exit] after [1/2 recommended holding period]** *(where applicable)*	**If you [exit] after [recommended holding period]**
Total costs	[ ] EUR	[ ] EUR	[ ] EUR
Annual cost impact (*)	[ ] %	[ ] % each year	[ ] % each year

(*) "This illustrates how costs reduce your return each year over the holding period. For example it shows that if you exit at the recommended holding period your average return per year is projected to be [ ] % before costs and [ ] % after costs."

(Where applicable): "We may share part of the costs with the person selling you the product to cover the services they provide to you. *(Where applicable)* [They will inform you of the amount]."

(Where applicable): "These figures include the maximum distribution fee that the person selling you the product may charge ([ ] % of amount invested / [ ] EUR). This person will inform you of the actual distribution fee.";

Table 1 for PRIIPs referred to in point (b) of Article 13

The PRIIP manufacturer shall include the following headings, narratives and the table 1 showing the aggregated cost figures in monetary and percentage terms described in points 61 and 62 of Annex VI with the holding periods referred to in point 90 of that Annex and providing a split between the costs of the PRIIP other than the costs of the underlying investment options ("insurance contract") and the range of costs of the underlying investment options ("investment options"):

"Costs over time

The tables show the amounts that are taken from your investment to cover different types of costs. These amounts depend on how much you invest, how long you hold the product [and how well the product does (*where applicable*)]. The amounts shown here are illustrations based on an example investment amount and different possible investment periods.

We have assumed:

- In the first year you would get back the amount that you invested (0 % annual return). For the other holding periods we have assumed the product performs as shown in the moderate scenario
- [EUR 10 000 / 1 000 per year] is invested

[*Statement indicating that the total costs to the retail investor consist of a combination of the costs of the PRIIP other than the costs of the underlying investment options and the investment option costs and vary on the basis of the underlying investment options*]"

	If you [exit] after 1 year *(where applicable)*	If you [exit] after [1/2 recommended holding period] *(where applicable)*	If you [exit] after [recommended holding period]
Total costs - Insurance contract - Investment options	 [ ] EUR [ ] – [ ] EUR	 [ ] EUR [ ] – [ ] EUR	 [ ] EUR [ ] – [ ] EUR

Annual cost impact (*)			
- Insurance contract	[ ] %	[ ] % each year	[ ] % each year
- investment options	[ ] – [ ] %	[ ] – [ ] % each year	[ ] – [ ] % each year

(*) "This illustrates how costs reduce your return each year over the holding period. For example it shows that if you exit at the recommended holding period your average return per year is projected to be [ ] % before costs and [ ] % after costs."

(Where applicable): "We may share part of the costs with the person selling you the product to cover the services they provide to you. *(Where applicable)* [They will inform you of the amount.]"

(Where applicable): "These figures include the maximum distribution fee that the person selling you the product may charge ([ ] % of amount invested / [ ] EUR). This person will inform you of the actual distribution fee."

Table 1 for PRIIPs referred to in point 76c of Annex VI (Autocallables)

For PRIIPs referred to in point 76c of Annex VI, the heading, narrative and table 1 "Costs over Time" shall be the following:

"Costs over time

The tables show the amounts that are taken from your investment to cover different types of costs. These amounts depend on how much you invest, how long you hold the product [and how well the product does *(where applicable)*]. The amounts shown here are illustrations based on an example investment amount and different investment periods.

<u>The duration of this product is uncertain as it may terminate at different times depending on how the market evolves</u>. The amounts shown here consider two different scenarios (early call and maturity). In case you decide to exit before the product ends, exit costs may apply in addition to the amounts shown here.

We have assumed:

- [EUR 10 000 / 1 000 per year] is invested
- a performance of the product that is consistent with each holding period shown.

	If the product is called at the first possible date [ ]	If the product reaches maturity
Total costs	[ ] EUR	[ ] EUR
Annual cost impact (*)	[ ] %	[ ] % each year

"(*) This illustrates how costs reduce your return each year over the holding period. For example, it shows that if you exit at maturity your average return per year is projected to be [ ] % before costs and [ ] % after costs."

(Where applicable): "We may share part of the costs with the person selling you the product to cover the services they provide to you. *(Where applicable)* [They will inform you of the amount.]"

(Where applicable): "These figures include the maximum distribution fee that the person selling you the product may charge ([ ] % of amount invested / [ ] EUR). This person will inform you of the actual distribution fee."

Table 2 for all PRIIPs except those referred to in point (b) of Article 13

The PRIIP manufacturer shall include a breakdown of costs according to the classification referred to in points 64 to 69 of Annex VI, using the headings and table 2 below.

A very brief description of the nature of each type of the costs shall be included. This shall include a numeric indicator (monetary amount or percentage) and the basis used for the calculation where this can be presented in simple terms that are likely to be understood by the type of retail investor to whom the PRIIP is intended to be marketed. The description shall be based on one or more of the examples included in the table below, unless these are not applicable.

"Composition of Costs

One-off costs upon entry or exit		*(PRIPs)*: If you [exit] after [1 year / recommended holding period *(if less than 1 year)*] *(Insurance based investment products)*: Annual cost impact if you [exit] after [recommended holding period]
Entry costs	[*Describe nature in no more than 300 characters. Examples:* - "[ ] % of the amount you pay in when entering this investment" - "[ ] % of the first [ ] premiums you pay" - "These costs are already included in the [price / premiums] you pay" - "This includes distribution costs of [[ ] % of amount invested / [ ] EUR]. [This is the most you will be charged]. [The person selling you the product will inform you of the actual charge]" - "We do not charge an entry fee"]	[Up to] [ ] EUR (PRIPs) or [ ] % (IBIPs)
Exit costs	[*Describe nature in no more than 300 characters. Examples:* - "[ ] % of your investment before it is paid out to you" - "We do not charge an exit fee for this product, [but the person selling you the product may do so]" *(Where exit costs only apply in specific circumstances)* – "These costs only apply if *(explain circumstances or an example in maximum 200 characters)*" *For insurance-based investment products where exit costs only apply before exit at the recommended holding period, the column to the right shall state "N/A" and the following statement shall be included in this column in addition to the descriptions above*: "Exit costs are stated as "N/A" in the next column as they do not apply if you keep the product until the recommended holding period"	[ ] EUR (PRIPs) or [ ] % (IBIPs)
Ongoing costs taken each year		
Management fees and other administrative or operating costs	[*Describe basis in no more than 150 characters. Example:* "[ ] % of the value of your investment per year"]. This is an estimate based on actual costs over the last year.	[ ] EUR (PRIPs) or [ ] % (IBIPs)
Transaction costs	[ ] % of the value of your investment per year. This is an estimate of the costs incurred when we buy and sell the underlying investments for the product. The actual amount will vary depending on how much we buy and sell.	[ ] EUR (PRIP) or [ ] % (IBIPs)
Incidental costs taken under specific conditions		
Performance fees [and carried interest]	*[[Describe in no more than 300 characters]*. The actual amount will vary depending on how well your investment performs. The aggregated cost estimation above includes the average over the last 5 years.] or [There is no performance fee for this product].	[ ] EUR (PRIP) or [ ] % (IBIPs)

(Where applicable): "Different costs apply depending on the investment amount [*explain circumstances or use an example in maximum 150 characters*]*"*

For PRIIPs offering a range of options for investment, PRIIP manufacturers shall use the table 1 and table 2 of this Annex applying to all PRIIPs except those referred to in point (b) of Article 13 and point 76c of Annex VI for the presentation of the costs, showing for the figures in each table, as relevant, the range of the costs.

For PRIIPs with a recommended holding period of less than 1 year, instead of "Annual cost impact", the label of the cost ratio in percentage terms in tables 1 and 2 shall be "Cost impact" and the footnote under the table 1 shall state the following "This illustrates the effect of costs over a holding period of less than 1 year. This percentage cannot be directly compared to the cost impact figures provided for other PRIIPs".

For PRIIPs where cost ratios in percentage are calculated using the notional value the following footnote shall be added below the table: "This illustrates costs in relation to the notional value of the PRIIP".

Table 2 for PRIIPs referred to in point (b) of Article 13

The PRIIP manufacturer shall include a breakdown of costs according to the classification referred to in points 64 to 69 of Annex VI, using the headings and table 2 below. Where applicable for the type of cost, a split of costs shall be shown between the costs of the PRIIP other than the costs of the underlying investment options ("insurance contract") and the range of costs of the investment options ("investment options").

A very brief description of the nature of each type of the costs shall be included. This shall include a numeric indicator (fixed amount or percentage) and the basis used for the calculation where this can be presented in simple terms that are likely to be understood by the type of retail investor to whom the PRIIP is intended to be marketed. The description shall be based on one or more of the examples included in the table below, unless these are not applicable.

"Composition of Costs

One-off costs upon entry or exit		Annual cost impact if you [exit] after [recommended holding period]
Entry costs	[*Describe nature in no more than 300 characters. Examples:* - "[ ] % of the amount you pay in when entering this investment" - "[ ] % of the first [ ] premiums you pay" - "These costs are already included in the [price / premiums] you pay" - "This includes distribution costs of [[ ] % of amount invested / [ ] EUR]. [This is the most you will be charged]. [The person selling you the product will inform you of the actual charge]" - "We do not charge an entry fee"]	"[ ] %" or "Insurance contract [ ] % Investment option [ ] – [ ] %"
Exit costs	[*Describe nature in no more than 300 characters. Examples:* - "[ ] % of your investment before it is paid out to you". - "We do not charge an exit fee for this product, [but the person selling you the product may do so]". *(Where exit costs only apply in specific circumstances)* – "These costs only apply if *(explain circumstances or an example in maximum 200 characters)*" *For insurance-based investment products where exit costs only apply before exit at the recommended holding period, the column to the right shall state "N/A" and the following statement shall be included in this column in addition to the descriptions above*: "Exit costs are stated as "N/A" in the next column as they do not apply if you keep the product until the recommended holding period."	"[ ] %" or "Insurance contract [ ] % Investment option [ ] – [ ] %"
Ongoing costs taken each year		
Management fees and other administrative or operating costs	[*Describe basis in no more than 150 characters. Example:* "[ ] % of the value of your investment per year"]. This is an estimate based on actual costs over the last year.	"[ ] %" or "Insurance contract [ ] % Investment option [ ] – [ ] %"
Transaction costs	[ ] % of the value of your investment per year. This is an estimate of the costs incurred when we buy and sell the underlying investments for the product. The actual amount will vary depending on how much we buy and sell.	"[ ] %" or "Insurance contract [ ] % Investment option [ ] – [ ] %"
Incidental costs taken under specific conditions		
Performance fees [and carried interest]	[*[Describe in no more than 300 characters]*. The actual amount will vary depending on how well your investment performs. The aggregated cost estimation above includes the average over the last 5 years.] or [There is no performance fee for this product].	"[ ] %" or "Insurance contract [ ] % Investment option [ ] – [ ] %"

(Where applicable): "Different costs apply depending on the investment amount [*explain circumstances or use an example in maximum 150 characters*]"

Annex VIII

Annex VIII is added to Delegated Regulation (EU) 2017/653:

"ANNEX VIII

CONTENT AND PRESENTATION OF PAST PERFORMANCE INFORMATION

Definitions

1. For the purpose of presenting information on past performance the following definitions shall apply:

   (a) 'UCITS' means a UCITS authorised in accordance with Article 5 of Directive 2009/65/EC which:

      (i) is a Category 2 PRIIP as set out in point 5 of Annex II; and

      (ii) does not provide retail investors, at certain predetermined dates, with algorithm-based payoffs that are linked to the performance, or to the realisation of price changes or other conditions, of financial assets, indices or reference portfolios or have similar features;

   (b) 'AIF' means an AIF as defined in point (a) of Article 4(1) of Directive 2011/61/EU which:

      (i) is a Category 2 PRIIP as set out in point 5 of Annex II;

      (ii) is an open-ended AIF as referred to in Article 1(2) of Commission Delegated Regulation (EU) No 694/2014[54]; and

      (iii) does not provide retail investors, at certain predetermined dates, with algorithm-based payoffs that are linked to the performance, or to the realisation of price changes or other conditions, of financial assets, indices or reference portfolios or have similar features;

   (c) 'unit-linked insurance-based investment product' means a unit-linked insurance-based investment product which:

      (i) is a Category 2 PRIIP as set out in point 5 of Annex II;

      (ii) has potential early exit or redemption possibilities prior to the recommended holding period, which are not subject to significant limiting conditions;

      (iii) provides benefits that are directly linked to the value of assets which are divided into units; and

[54] Commission Delegated Regulation (EU) No 694/2014 of 17 December 2013 supplementing Directive 2011/61/EU of the European Parliament and of the Council with regard to regulatory technical standards determining types of alternative investment fund managers (OJ L 183, 24.6.2014, p. 18).

(iv) does not provide retail investors, at certain predetermined dates, with algorithm-based payoffs that are linked to the performance, or to the realisation of price changes or other conditions, of financial assets, indices or reference portfolios or have similar features.

Past performance calculation for UCITS or AIFs

2. The calculation of past performance figures shall be based on the net asset value of the UCITS or AIFs, and they shall be calculated on the basis that any distributable income of the fund has been reinvested.

Use of 'simulated' data for past performance for UCITS or AIFs

3. A simulated performance record for the period before data was available shall only be permitted in the following cases, provided that its use is fair, clear and not misleading:

   (a) a new share class of an existing UCITS or AIF or investment compartment may simulate its performance by taking the performance of another class, provided the two classes do not differ materially in the extent of their participation in the assets of the UCITS or the AIF;

   (b) a feeder UCITS or AIF may simulate its performance by taking the performance of its master UCITS or AIF, provided that one of the following conditions is met;

      (i) the feeder UCITS or AIF's strategy and objectives do not allow it to hold assets other than units of the master UCITS or AIF and ancillary liquid assets;

      (ii) the feeder UCITS or AIF's characteristics do not differ materially from those of the master UCITS or AIF.

Past performance calculation for unit-linked insurance-based investment products

4. The calculation of past performance as described in point 2 of this Annex shall apply *mutatis mutandis* to unit-linked insurance-based investment products. The calculation shall be consistent either with the explanation of the impact of the biometric risk premium or the cost part of the biometric risk premium on the investment return as referred to in Article 2(4).

Presentation of past performance for UCITS or AIFs

5. The information about the past performance of the UCITS or the AIF shall be presented in a bar chart covering the performance of the UCITS or the AIF for the last 10 years. The size of the bar chart shall allow for legibility.

6. UCITS or AIFs with performance of less than five complete calendar years shall use a presentation covering the last five years only.

7. Any year for which data is not available shall be shown as blank with no annotation other than the date.

8. For UCITS or AIFs which do not yet have performance data for one complete calendar year, a statement shall be included explaining that there is insufficient data to provide a useful indication of past performance to retail investors.

9. The bar chart layout shall be supplemented by the following statements, which shall appear prominently:

   (a) a warning about the limited value of past performance as a guide to future performance, using the following statement in bold letters:

   “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”;

   (b) a narrative explaining what is shown which shall be included above the bar chart and shall state in bold letters:

   “This chart shows the fund’s performance as the percentage loss or gain per year over the last [x] years.”;

   (c) if applicable, a product specific warning about the lack of representativeness of the past in accordance with point 15 of this Annex or if relevant other reasons with a maximum of 150 characters in plain language;

   (d) a brief explanation of which charges and fees have been included or excluded from the calculation of past performance where relevant. This shall not apply to UCITS or AIFs which do not have entry or exit charges. [An example narrative:

   "**Performance is shown after deduction of ongoing charges. Any entry and exit charges are excluded from the calculation.**"];

   (e) an indication of the year in which the fund, compartment or share class came into existence;

   (f) if relevant an indication of the currency in which past performance has been calculated.

10. The information shall not contain any record of past performance for any part of the current calendar year.

Use of a benchmark alongside the past performance

11. Where the section entitled “What is this product?” of the key information document makes reference to a benchmark, a bar showing the performance of that benchmark shall be included in the chart alongside each bar showing past performance of the UCITS or

the AIFs. This applies for UCITS or AIFs tracking a benchmark as well as for those managed in reference to a benchmark. A UCITS or AIF is deemed to be managed in reference to a benchmark, where the benchmark index plays a role in the management of the UCITS or AIF, such as for portfolio composition and/or performance measures.

12. For UCITS or AIFs which do not have past performance data over the required five or 10 years, the benchmark shall not be shown for years in which the UCITS or AIF did not exist.

13. If the UCITS or AIF is managed in reference to a benchmark as referred to in point 11 of this Annex, the narratives in point 9 of this Annex shall be supplemented as follows in bold letters:

"This chart shows the fund's performance as the percentage loss or gain per year over the last [ ] years against its benchmark."

"It can help you to assess how the fund has been managed in the past and compare it to its benchmark."

Presentation of the bar chart

14. The bar chart presenting past performance shall comply with the following criteria:

(a) the scale of the Y-axis of the bar chart shall be linear, not logarithmic;

(b) the scale shall be adapted to the span of the bars shown and shall not compress the bars so as to make fluctuations in returns harder to distinguish;

(c) the X-axis shall be set at the level of 0 % performance;

(d) a label shall be added to each bar indicating the return in percentage that was achieved;

(e) past performance figures shall be rounded to one decimal place.

Impact and treatment of material changes

15. Where a material change occurs in the UCITS' or AIF's objectives and investment policy during the period displayed in the bar chart referred to in points 5 to 10 of this Annex, the UCITS´ or AIF´s past performance prior to that material change shall continue to be shown.

16. The period prior to the material change referred to in point 15 of this Annex shall be indicated on the bar chart and labelled with a clear warning that the performance was achieved under circumstances that no longer apply.

Use of 'simulated' data for past performance

17. In all cases where performance has been simulated in accordance with point 3 of this Annex, there shall be prominent disclosure on the bar chart that the performance has been simulated.

18. A UCITS or AIF changing its legal status but remaining established in the same Member State shall retain its performance record only where the competent authority of that Member State reasonably assesses that the change of status would not impact the UCITS' or AIF's performance.

19. In the case of mergers referred to in points (p)(i) and (iii) of Article 2(1) of Directive 2009/65/EC, only the past performance of the receiving UCITS shall be maintained.

20. Point 19 of this Annex shall apply *mutatis mutandis* in the case of mergers of AIFs.

Presentation of past performance of feeder UCITS or AIFs

21. The past performance presentation of feeder UCITS or AIF shall be specific to the feeder UCITS or AIF, and shall not reproduce the performance record of the master UCITS or AIF.

22. Point 21 of this Annex shall not apply where:

    (a) the feeder UCITS or AIF shows the past performance of its master UCITS or AIF as a benchmark; or

    (b) the feeder was launched as a feeder UCITS or AIF at a later date than the master UCITS or AIF, and where the conditions of point 3 of this Annex are satisfied, and where a simulated performance is shown for the years before the feeder existed, based on the past performance of the master UCITS or AIF; or

    (c) the feeder UCITS has a past performance record from before the date on which it began to operate as a feeder, its own record being retained in the bar chart for the relevant years, with the material change labelled as required by point 16 of this Annex.

Presentation of past performance of unit-linked insurance-based investment products

23. Points 5 to 16 of this Annex shall apply *mutatis mutandis* to unit-linked insurance-based investment products. The presentation shall be consistent either with the description of the impact of the biometric risk premium or the cost part of the biometric risk premium on the investment return referred to in Article 2(4).".

6. Impact Assessment

1. Procedural issues and consultation of interested parties

According to the ESAs' Regulations, the ESAs conduct analysis of costs and benefits when drafting RTS, unless such analyses are disproportionate in relation to the scope and impact of the draft RTS concerned or in relation to the particular urgency of the matter.

The analysis of costs and benefits is undertaken according to an Impact Assessment methodology. This impact assessment document presents the key policy questions and the associated policy options considered in developing this amending RTS.

The RTS is based on the empowerments in Articles 8(5) and 10(2) of the PRIIPs Regulation. Since the provision in the RTS under the empowerment in Article 10(2) is only a minor consequential change, this impact assessment addresses primarily the impact of the provisions drafted under the empowerment in Article 8(5).

During this review the ESAs contributed to a consumer testing exercise undertaken by the European Commission which assessed retail investors' understanding and decision making regarding the presentation of performance scenarios and information on past performance (see Section 3 for further details). In relation to the performance scenarios methodology, the ESAs undertook extensive quantitative analysis to analyse the results obtained using different methodologies across a range of different PRIIPs (see Section 4.3 for further details). The results of these studies are also referred to in this impact assessment.

A draft cost and benefit analysis was subject to public consultation between October 2019 and January 2020 and stakeholders' responses to the public consultation were duly analysed and served as a valuable input for the revision of the draft RTS and development of the final impact assessment.

2. Problem definition

According to Article 8(5) of the PRIIPs Regulation, the ESAs are empowered to develop draft RTS specifying:

a) The details of the presentation and content of information contained in KIDs (following the sections set out in Article 8(3) of the PRIIPs Regulation);
b) The methodology to be used for the summary risk indicator and performance scenarios ('risk and reward');
c) The methodology to be used for the summary cost indicators.

The general purpose of the KID is to aid consumers in comprehending the features of, and comparing between, different PRIIPs. This RTS intends to support this general purpose by amending how different elements of the information in the KID should be calculated or presented.

Experience since the implementation of the KID in 2018 has indicated that optimal outcomes are not being achieved, and, in view of this, the ESAs have analysed the need for changes to the existing PRIIPs Delegated Regulation. The key problems that have been identified concern:

- In relation to the rewards:
  - A lack of balanced perspective on potential rewards, including the possible downside as well as upside
  - The risk of misunderstandings in relation to the uncertainty of future returns

- In relation to costs:
  - Challenges for retail investors to understand the summary cost indicators
  - A lack of clarity on the applicability of different types of costs
  - Challenges to understand the impact of costs over time

Baseline

When analysing the potential costs and benefits arising from the proposed options for amending the PRIIPs Delegated Regulation, these have been compared to a baseline scenario of no regulatory intervention taking place. This baseline scenario entails:

- For PRIIPs other than UCITS and relevant non-UCITS funds referred to in Article 32 of the PRIIPs Regulation, the continued application of the PRIIPs Regulation and Delegated Regulation;

- For UCITS and relevant non-UCITS funds referred to in Article 32 of the PRIIPs Regulation, the implementation of the PRIIPs KID based on the current PRIIPs Delegated Regulation in view of the expiry of the exemption in Article 32 of the PRIIPs Regulation.

3. Objectives pursued

The empowerment in Article 8(5) of the PRIIPs Regulation sets out that the ESAs shall take into account the various types of PRIIPs, the differences between them and the capabilities of retail investors as well as the features of the PRIIPs so as to allow the retail investor to select between different underlying investments or other options provided for by the product, including where this selection can be undertaken at different points in time, or changed in the future.

Taking this into account the amendments aim primarily to:

- Improve the understanding by retail investors of the information in KIDs;
- Promote a balanced presentation of the information whereby both the potential upside and downside of products are shown in an objective manner;
- Facilitate comparability between substitutable products;
- Ensure proportionate approaches are taken in terms of the balance between the costs for the industry and the benefits for different stakeholders.

These objectives are consistent with the objectives of the PRIIPs Regulation to improve the transparency of PRIIPs offered to retail investors and thereby enhance investor protection through the establishment of uniform rules at Union level applicable to all participants in the PRIIPs market.

4. Policy options

Approach

The proposed amendments to the PRIIPs Delegated Regulation refer to the following provisions or new provisions:

(a) Article 1 ('General information' section)
(b) Article 2 ('What is this product?' section)
(c) Article 5 ('What are the costs?' section)
(d) Article 8 ('Other relevant information' section)
(e) Articles 10-14 ('Specific provisions on the Key Information Document' by PRIIPs offering a range of options for investment)
(f) New Articles 14a-14e ('Specific provisions on the Key Information Document' by certain UCITS and AIFs)
(g) Article 15 ('Review')
(h) New Article 17a ('Use of cross-references to other sources of information')
(i) Annex I ('Template for the Key Information Document')
(j) Annex II ('Methodology for the presentation of risk')
(k) Annex III ('Presentation of SRI')
(l) Annex IV ('Performance scenarios')
(m) Annex V ('Methodology for the presentation of performance scenarios')
(n) Annex VI ('Methodology for the calculation of costs')
(o) Annex VII ('Presentation of costs)'
(p) New Annex VIII ('Content and presentation of past performance information')

This impact assessment focuses on the following proposed amendments, which are expected to have the most material impacts:

- Changes to the methodology for performance scenarios;
- The disclosure of information on past performance;
- Revisions to the summary cost indicator used for the costs breakdown (i.e. the split of costs into different components or elements).

The amendments proposed in relation to other aspects of the KID either:

- Concern revisions to the presentation of information, which are discussed in general terms in the next section 'Analysis of impacts'; or
- Are not considered to have a material impact compared to the baseline, for example, because they are proposed primarily for the purpose of clarification, or they aim at providing legal certainty as to the intended application of the rules.

With the intention to meet the objectives set out in the previous section, EIOPA has analysed different policy options during the policy development process.

Regarding the first substantive issue of the performance scenario methodology, the following main options were considered:

- **Policy Option 1.1 - Method based on the identification of asset specific risk premium using market data:** This method would mean that instead of using the observed historic growth of an asset to estimate potential future performance, the expected growth rate for a particular asset would be the sum of a country reference rate and that asset specific risk premium. The identification of the asset specific risk premium would depend on the asset class; for equity assets it would be derived from the dividend rate.

- **Policy Option 1.2 – Method based on the use of standardised growth rates:** This method involves estimating potential future performance based on prescribed growth rates per broad asset class, e.g. equities, property, bonds, etc.. This growth rate would be applied to all investments within that particular asset class and would be set as a maximum (i.e. it would be possible for the PRIIP manufacturer to use a lower growth rate).

- **Policy Option 1.3 – Use of "illustrative scenarios" for certain types of PRIIPs**: According to this approach, Category 3[55] PRIPs[56], i.e. non-linear or structured products would be required to use illustrative scenarios to show potential future performance based on the approach currently used for structured UCITS[57].

- **Policy Option 1.4 – Method based on more direct estimates of scenarios for certain types of PRIIPs**: For linear investment funds and similar PRIIPs (e.g. unit-linked insurance-based investment products linked to such funds) to estimate the scenarios more directly from the actual price history of the PRIIP or a relevant benchmark.

The second major issue concerns the provision of information on past performance. During this review, and including as part of the consumer testing study conducted, the ESAs considered the relevance to include information on past performance within the KID itself. However, in the context of the RTS, given that it has been argued that the intention of the co-legislators was for performance scenarios to be shown in the KID instead of past performance, this was not ultimately considered to be a viable policy option (due to the risk of being deemed non-compliant with the PRIIPs Regulation). In view of this, two relevant options were identified:

- **Policy Option 2.1: PRIIP manufacturers required to disclose past performance for specified types of PRIIPs**: This entails defining which types of PRIIPs would be required to disclose past performance, which would be certain types of investment funds and unit-linked insurance-based investment products.

[55] As defined in point 6 of Part 1 of Annex II of the PRIIPs Delegated Regulation.

[56] As defined in point 1 of Article 4 of the PRIIPs Regulation, i.e. PRIIPs that are not insurance-based investment products.

[57] As defined in Article 36 of Commission Regulation (EU) No 583/2010

- **Policy Option 2.2: PRIIP manufacturers able to disclose past performance where relevant (i.e. optional)**

In terms of the third key policy issue concerning the summary costs indicators, two policy options were considered:

- **Policy option 3.1: Replace the existing indicator with a cost description**: For the cost breakdown, the current summary cost indicator, which shows a reduction in yield figure for each cost element if the PRIIP is kept until the recommended holding period, would be replaced by a short cost description briefly explaining the nature and basis of the cost (e.g. X % of the amount invested).

- **Policy option 3.2: Use a different summary cost indicator for PRIPs compared to insurance-based investment products**: This involves showing information on the cost breakdown in the second cost Table 2 in monetary terms after 1 year for PRIPs. For insurance-based investment products, the cost breakdown would continue to be shown (as per the existing approach) as a reduction in yield figure at the recommended holding period.

5. Analysis of impacts

General impact of changes to the KID template

Any changes to the presentation and content of the KID or the methodologies underpinning it have the potential to result in substantial compliance costs for the industry, given that these changes will require *inter alia*:

- The review and update of IT systems or tools used, in particular where amendments entail changes to the KID template or its overall structure;
- PRIIP manufacturers to review and revise the KIDs for the PRIIPs that they continue to market or which continue to remain available to retail investors;
- Updating of websites;
- Consultation of internal or external experts such as lawyers or actuarial experts;
- Potential translation of updated KIDs;
- Potential restructuring and redesign of the KID template.

The proposed amendments entail various changes to the KID template. These changes will necessitate material one-off implementation costs for existing PRIIP manufacturers. They will also entail material one-off implementation costs for PRIIP manufacturers and persons advising or selling PRIIPs to integrate the revised KIDs within their distribution processes.[58]

In terms of implementation costs for the industry, most of respondents to the public consultation found it difficult to make estimations. Nevertheless, based on the actual implementations costs of the PRIIPs Regulation, one industry association estimated that overall the proposals in the consultation

[58] For example, for the PRIIP manufacturer to explain the changes to persons advising or selling PRIIPs and update any guidance material that they had prepared to support such persons, i.e. training materials.

paper would entail costs of 4.7 million euros for one major EU market. Based on the assumption that similar costs would be applicable in other Member States, which is unlikely to be the case in practice due to differences between EU markets, this would entail total costs of around 25.4 million euros for the EU insurance industry. There are material differences between the proposals in the consultation paper compared to those in the Final Report. In particular, the final proposals for the performance scenario methodology should be less costly than those proposed in the consultation paper (see next Section for further details), and less substantive changes to the rules for PRIIPs offering a range of options for investment are included in the final proposals compared to those in the consultation paper. Therefore, for these reasons the above estimate needs to be treated cautiously with respect to the final RTS.

On the other hand, some consumer representatives argued that the implementation costs for the industry need to be considered alongside the costs of malpractice by the industry, such as observed examples of misselling cases, which have in the past resulted in losses to investors amounting to millions of euros. The occurrence of such costs to investors can be an indication of the benefits of appropriate disclosure. However, it should also be recognised that these costs and benefits are not directly attributable to the KID, given that the KID is only one of the regulatory tools aiming to minimise such market practices.

Analysis of specific impacts for the main policy issues

The following tables summarise the costs and benefits for each of the policy issues and options described in the previous Section 4.

Policy issue 1: Performance scenario methodology		
Option 1.1: Method based on the identification of asset specific risk premium using market data		
Costs	Retail investors	There are not considered to be material direct costs for retail investors, except the potential for regulatory or implementation costs to be passed on to consumers.
	Industry	Quantitative testing by the ESAs on a large sample of PRIIPs[59] and feedback from stakeholders indicated that there would be significant implementation costs for PRIIP manufacturers to implement this change. This revised method entails additional complexities compared to the existing approach, as well as the need to obtain the relevant market information. For instance, PRIIP manufacturers would need to decompose the assets underlying the PRIIP by asset class, country and sector or rating (rather than only using historical prices of the PRIIP or a proxy).

[59] This included back testing for each of the options, which analysed how the figures generated using the different method compared to the actual performance of the products. This provided evidence on the extent to which each method could be a relevant indicator of potential future performance. See Sections 4.3.3 and 7 of the Final Report for further details.

		PRIIP manufacturers will also need to monitor the impact of changes in their asset allocation over time on the calculations. The quantitative testing demonstrated particular challenges for multi-asset portfolios. The information needed to determine the reference rate and risk premia requires access to a market data provider. This has costs and stakeholders have stated that these costs increase when the information is used for regulatory purposes. This may also be difficult for PRIIP manufacturers that are smaller in size. This information may also be difficult to source for some products e.g. those based on investments in developing economies. Overall, this option is considered to have the largest one-off and ongoing implementation costs.
	Supervisors	The oversight burden for supervisors would be higher than for the methodology in the current Delegated Regulation and the other Options, given for example that the asset decomposition and choices of reference rates and risk premia by PRIIP would need to be carefully scrutinised.
	Other	N/A
Benefits	Retails investors	The quantitative testing by the ESAs indicated that this approach should be an improvement to the current Delegated Regulation, at least for certain types of PRIIPs, in terms of the relevance or appropriateness of the information presented. To the extent that there are such improvements, this option would reduce the risk that retail investors acquire unrealistic expectations about what they could get in return. However, it should also be noted that this quantitative testing indicated that the approach would not fully address the issues with the current method, since dividend yields, reference rates and yields to maturity also depend on economic cycles (as per the asset or PRIIP performance generally).
	Industry	To the extent that the approach improves the relevance of the performance scenario figures, PRIIP manufacturers can benefit from retail investors having more reasonable expectations about the potential rewards from their products (e.g. potential reduced investor complaints).
	Supervisors	As with the industry, supervisors should also benefit to the extent that retail investors have more reasonable expectations about the potential rewards from their products (e.g. potential reduced investor complaints).
	Other	N/A
Option 1.2: Method based on the use of standardised growth rates per broad asset class		

Costs	Retail investors	Such a standardised approach can reduce the ability for retail investors to compare between different products, and in particular between different types of investment strategies.
	Industry	The approach would not enable the particular characteristics of the PRIIP and the investment strategy of the asset manager or PRIIP manufacturer to be fully reflected. This would include different strategies regarding asset composition, leverage, currency risk, long or short exposure, or arbitrage between asset classes or assets.
	Supervisors	The approach raises additional regulatory challenges from a technical and resource perspective. It is difficult to define growth rates that can be applied to the range of asset classes and under different market circumstances. These rates are also expected to require regular review requiring additional ongoing monitoring and regulatory work.
	Other	N/A
Benefits	Retail investors	Since maximum rates are set, the approach should significantly minimise the risk that retail investors acquire unrealistic expectations about what they could get in return compared to the current approach. However, the quantitative testing showed some other potential issues that could affect the relevance of the figures shown, e.g. where a product has a short recommended holding period while the growth rates are set using very long-term data sets.
	Industry	The costs would be materially less than Option 1.1 given that PRIIP manufacturers would be able to use directly the prescribed growth rates, and in particular market data would generally not need to be sourced. The costs are also expected to be less than the other Options because the changes to the existing methodology and template are more limited. To the extent that the approach improves the relevance of the performance scenario figures, PRIIP manufacturers can benefit from retail investors having more realistic expectations about the potential rewards from their products (e.g. potential reduced investor complaints).
	Supervisors	As above, supervisors should also benefit to the extent that retail investors have more realistic expectations about the potential rewards from their products (e.g. potential reduced investor complaints). The approach should be more straightforward to supervise on an ongoing basis than Options 1.1 and 1.3, given its standardisation and relative simplicity.
	Other	N/A
Option 1.3: Use of illustrative scenarios for certain types of PRIIPs		

Costs	Retail investors	There is a risk of inconsistent approaches between different PRIIPs given the discretion to PRIIP manufacturers to select the appropriate scenarios. Consequently, retail investors would no longer be provided with an "objective" basis for comparing the potential rewards. Depending on how the scenarios are presented, there can also be a higher risk that retail investors do not understand that the different scenarios shown have different likelihoods (e.g. that the most positive scenarios will normally have a low likelihood of occurrence). The results of the consumer testing study (see Section 3) did not provide evidence that the inclusion of illustrative scenarios improved consumer understanding or decision making. However, it should be noted that the testing only assessed the use of illustrative scenario in combination with other performance scenarios (and not the case of using only illustrative scenarios).
	Industry	There will be significant one-off implementation costs for existing PRIIP manufacturers to design and implement this new approach and decide on appropriate scenarios per product, as well as ongoing costs to ensure the appropriateness of these scenarios over time. There would also be material costs to revise the presentation template. Given that market data should not need to be sourced, these costs are likely to be lower than the costs for Option 1.1. However, they are likely to be higher than the costs for Options 1.2 and 1.4 given that these other Options are more standardised or simpler and do not require PRIIP manufacturer to decide how to use their discretion. For structured UCITS the implementation costs should be significantly less given that this approach is currently used for the UCITS KIID. In this case, there would still be costs to implement the approach within the PRIIPs KID template. Given the discretion to PRIIP manufacturers to select the scenarios, there is a risk (subject to how the approach is applied and supervised), that certain PRIIPs will show a higher potential for reward than others without an objective justification for doing so.
	Supervisors	While this approach is already taken for structured UCITS, for other types of structured PRIPs, this approach will require additional supervisory resources to review and monitor whether PRIIP manufacturers present appropriate and balanced scenarios.
	Other	N/A
Benefits	Retail investors	Given the additional illustrations and explanations, retail investors may be better informed about the types of factors affecting their return.

		This approach should enable certain types of retail investors to better understand the basis for the figures shown in comparison to the current approach.[60] However, see the comment above in the costs for retail investors regarding the results of the consumer testing study.
	Industry	For structured UCITS, there would be consistency with the existing approach, which should be beneficial for PRIIP manufacturers (i.e. limited costs) and PRIIP advisors or sellers who are familiar with this information being displayed for these types of funds. PRIIP manufacturers would have the opportunity to more specifically demonstrate the features of their product, for example to clearly indicate the relationship to an underlying asset or the existence of a cap or floor. To the extent that retail investors are better informed about the factors affecting their potential returns, this should be of benefit to PRIIP manufacturers (e.g. potential reduced investor complaints).
	Supervisors	Supervisors should also benefit to the extent that retail investors are better informed about the factors affecting their potential returns (e.g. potential reduced investor complaints).
	Other	N/A
Option 1.4 - Method based on more direct estimates of scenarios for certain types of PRIIPs		
Costs	Retail investors	There are not considered to be material direct costs for retail investors, except the potential for regulatory or implementation costs to be passed on to consumers.
	Industry	Given this approach involves a new methodology for certain types of PRIIPs, (rather than adjusting or replacing parameters within the existing methodology) there would be material costs to implement this new calculation method for these types of PRIIPs. There would also be material costs to revise the presentation template. However, these costs should be less than Options 1.1 and 1.3, given that the approach is simpler and should not require additional market data to be sourced. In addition, a significant proportion of the PRIIPs covered by this approach are not currently required to prepare a PRIIPs KID and therefore the costs of implementing this new method should not be greater than the baseline costs of implementing the existing methodology. For other types of PRIIPs that would continue to use the existing methodology, clearly this option should not entail additional costs.

[60] The current approach is based on a model for which the technical parameters cannot be fully disclosed in a summary consumer document.

	Supervisors	There are not considered to be any material costs for supervisors.
	Other	N/A
Benefits	Retail investors	The approach should be more comprehensible to retail investors given that it is simpler than the current method and more factual in terms of being based more directly on past outcomes. The quantitative testing showed significant improvements in addressing the issues that have been observed with the current performance scenarios.[61] Thus, the approach should significantly minimise the risk that retail investors acquire unrealistic expectations about what they could get in return compared to the current approach. The approach enables the specific features of the PRIIP and its strategy to be reflected, thereby providing an objective basis for comparison between PRIIPs.
	Industry	The implementation costs should be materially less than Option 1.1, given that additional market data should not need to be sourced. Based on the quantitative testing conducted, PRIIP manufacturers should benefit from retail investors not having unrealistic expectations about the potential rewards from their products (e.g. potential reduced investor complaints).
	Supervisors	Supervisors should also benefit from retail investors not having unrealistic expectations about the potential rewards from their products (e.g. potential reduced investor complaints).
	Other	N/A

Policy issue 2: Disclosure of past performance		
Option 2.1: PRIIP manufacturers required to disclose past performance for specified types of PRIIPs		
Costs	Retail investors	It has been argued that retail investors may unduly rely on past performance information and assume this performance will be replicated in the future. However, the consumer testing study provided evidence that this is generally not the case and the majority of consumers appreciate the limitations of past performance. It has been argued that retail investors may find the disclosure of past performance information as well as future performance scenarios confusing. However, the consumer testing study indicated that there is not a negative impact on consumer understanding and decision making

[61] See Section 4.3.3 point (i) for more explanation of these issues.

		from showing information on both past and potential future performance.
	Industry	No additional implementation costs identified for PRIIP manufacturers currently producing a KII under the UCITS regulations, which is considered to be the majority of PRIIP manufacturers that will be covered by this additional requirement. For non-structured funds and for linear unit-linked insurance-based investment products that do not currently prepare a KII document there are considered to be material implementation (one-off) costs and ongoing costs to review and update this information. Where it is not a new fund, such funds should have relevant information on past performance and therefore would need to prepare systems to present it in the required format.
	Supervisors	There are not considered to be material costs for supervisors
	Other	N/A
Benefits	Retail investors	Retail investors will receive additional information that should be relevant to their decision making, including to understand how effectively the product has been managed in the past and, where relevant, how it has performed against a benchmark. The consumer testing study showed some benefits to showing past performance in terms of consumer understanding and decision making. With this policy option, retail investors benefit from a consistent approach being taken for particular types of PRIIP (i.e. because the disclosure of past performance is mandatory for specified types of PRIIPs).
	Industry	For non-structured UCITS, there will be consistency with the existing approach in the UCITS KII. This will be beneficial for PRIIP manufacturers (limited costs) and PRIIP advisors and sellers and retail investors who are familiar with this information being displayed. For other products, those PRIIP manufacturers that agree with the relevance of the disclosure of information about the product's past performance are expected to see benefit in the consistent and comparable disclosure of this information.
	Supervisors	There are not considered to be material benefits for supervisors
	Other	N/A
Option 2.2: PRIIP manufacturers able to disclose past performance where relevant (i.e. optional)		
Costs	Retail investors	Where past performance is included the potential costs would be the same as for Option 2.1.

		With this policy option (i.e. the inclusion of past performance at the discretion of PRIIP manufacturer), retail investors may not be provided with information on past performance in all relevant cases, e.g. where the past performance has been particularly negative the PRIIP manufacturer may decide not to disclose it. Linked to this, there is expected to be some reduced comparability between similar PRIIPs. In this case, retail investors may not understand why information on past performance has not been disclosed for a particular PRIIP, while it has been included for another PRIIP with similar features.
	Industry	Where information on past performance is disclosed the costs would be same as for Option 2.1.
	Supervisors	There are not considered to be material costs for supervisors.
	Other	N/A
Benefits	Retail investors	Where past performance is disclosed the potential benefits would be the same as for Option 2.1.
	Industry	Where past performance is disclosed the potential benefits would be the same as for Option 2.1. Since this would be an optional requirement, this approach should eliminate the risk that past performance is disclosed in cases where it can be seen as not relevant (or representative) based on the specific feature of the product.
	Supervisors	There are not considered to be material benefits for supervisors.
	Other	N/A

Policy issue 3: Revisions to summary cost indicators		
Option 3.1: Replace existing summary cost indicator with a cost description		
Costs	Retail investors	Where different cost structures are used, or for PRIIPs with different recommended holding periods, it may, as a result of this change, be more difficult for retail investors to compare between different PRIIPs, in terms of the impact and scale of different individual cost elements. However, it can be argued that this is not a significant drawback given that comparison at the level of total costs can be seen as the most relevant point of comparison.
	Industry	For certain types of cost structures there can be challenges to adequately describe the nature of the cost using only a brief description. In this case

		a single cost figure or percentage can be a more relevant summary indicator.
	Supervisors	There are not considered to be material costs for supervisors
	Other	N/A
Benefits	Retail investors	The cost descriptions should allow retail investors to understand how the cost structure applies to their particular circumstances (taking into account, for example, that the KID does not need to be a personalised document, e.g. it is based on a standardised investment amount). The cost breakdown information (in Table 2) can be more comprehensible to retail investors in this case because it would be factual information, which does not rely on calculation assumptions. In particular, it should address some of the concerns that have been raised with the current approach. For instance, that certain retail investors are not familiar with a reduction in yield cost indicator, in particular for individual cost elements (e.g. entry costs). This means they may be confused by what the current percentage figure shows (i.e. the annual impact of the cost if the product is held for the recommended holding period). This option should address the concerns expressed by certain stakeholders that different figures are currently disclosed for the same type of costs in the KID compared to product disclosures under sectoral legislation, which is seen as a major source of confusion for retail investors.
	Industry	The issues described in the box above are also applicable to the industry, since improved comprehension by consumers should be beneficial for PRIIP manufacturers and advisors and sellers, (e.g. improved consumer satisfaction).
	Supervisors	There are not considered to be material costs for supervisors
	Other	N/A
Option 3.2: Use a different summary cost indicator for packaged retail investment products (PRIPs) compared to insurance-based investment products (IBIPs)		
Costs	Retail investors	There will be an impact on the ability for retail investors to compare at the level of individual costs elements between PRIPs and IBIPs. This is particularly relevant in the case of MOPs, which offer PRIPs as investment options. However, it should not have an impact on the ability for retail investors to compare between investment options within a MOP, for which the same cost indicator should be used. Comparison will also continue to be possible at the level of total costs.

	Industry	In the case of MOPs offering PRIPs as investment options, additional steps may be required by the MOP manufacturer to prepare the reduction in yield summary cost indicator for the individual cost elements. This is because, where the PRIP is offered directly to retail investors, a different cost indicator will be shown in the KID for that PRIP.
	Supervisors	There are not considered to be material costs for supervisors
	Other	N/A
Benefits	Retail investors	Similar to Option 3.1 this approach should also address some of the concerns that have been raised regarding the extent to which the current approach is understood by retail investors. For instance, that retail investors in PRIPs are not familiar with the use of a reduction in yield indicator in relation to individual cost elements (e.g. entry costs) and can be confused by what the percentage figure for the recommended holding period shows. As with the current Delegated Regulation, retail investors would continue to be presented with a summary cost indicator in the form of a single figure or percentage. This facilitates direct comparison between different PRIPs or IBIPs in terms of scale and impact of the different individual cost elements. There would also continue to be a direct connection between the cost figures in the first Table 1 (at the level of total costs) and the cost breakdown in Table 2 (i.e. the figures in the second table add up to a figure shown in the first table). The original consumer testing conducted in 2015 indicated that this connection can be helpful for consumers. If this approach is taken for PRIPs, it is expected that the figures disclosed by advisors and sellers under MiFID can be based directly on the figures in the KID. This should address the concerns expressed regarding different figures being shown in these two sets of product disclosures and thereby provide a clearer and more coherent picture to retail investors on the product costs.
	Industry	PRIP manufacturers should also benefit from improved comprehension by retail investors of the individual cost elements, e.g. in terms of customer satisfaction and limiting complaints. This approach should facilitate the disclosures by advisors and sellers of PRIPs under MiFID. It is expected that the figures to be disclosed under MiFID can be based directly on those in the PRIIPs KID.
	Supervisors	There are not considered to be material costs for supervisors
	Other	N/A

6. Comparison of options

Policy issue 1

The preferred policy option for this policy issue is the use of a method based on more direct estimates of scenarios for certain types of PRIIPs, (Option 1.4) because this approach is supported by the quantitative analysis conducted by the ESAs in terms of the relevance of the figures that would be disclosed. It is also considered to be more comprehensible to retail investors than the existing approach, as well as the other policy options considered. The other options have been disregarded because they either raise significant implementation costs or challenges, do not sufficiently address the issues that have arisen with the current methodology, or do not allow for the specific features of different types of PRIIPs to be adequately reflected.

The choice of the preferred option has required a trade-off between selecting an approach that can be applied to the widest possible range of PRIIPs in order to maximise the ability for comparison, and ensuring the meaningfulness of the information presented in different market contexts and in particular avoiding unrealistic expectations being generated. More weight has been given to the second aspect given that providing clarity on the risks of a product is considered to be the primary objective (above absolute comparability), as well as given the significant risks of consumer detriment that can arise where inappropriate expectations of rewards are generated. Furthermore, this option is still considered to adequately meet the objective of facilitating comparison between different PRIIPs.

Policy issue 2

For the second policy issue, it has been decided that Option 2.1 – PRIIP manufacturers required to disclose information on past performance for certain types of PRIIPs – is the preferred approach. This is because it provides for a consistent approach for relevant types of PRIIPs, while the other option risks different approaches being taken, with expected negative impacts on consumer experiences, without a clear justification for these differences. Taking into account the feedback received to the public consultation, the ESAs consider that it has been possible to identify the relevant cases where past performance information can be disclosed, thereby limiting the drawback of this approach, as well as limiting the benefits of Option 2.2.

Policy issue 3

The preferred option for this policy issue is the use of a different summary cost indicator for packaged retail investment products compared to insurance-based investment products – Option 3.2. This approach is considered a significant improvement to the current approach (i.e. the baseline) in terms of consumer understanding. Additionally, it continues to allow for direct comparison at the level of total costs, as well as comparison of individual cost elements within the main product types. It should also best facilitate alignment with sectoral product disclosures. Option 3.1 has been discarded because, although it may also improve consumer understanding compared to the current approach, it is not considered to have the same degree of benefit as Option 3.2 in terms of facilitating comparability and alignment with sectoral product disclosures.