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| 16 October 2019 |

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

Responding to this paper

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

The consultation package includes:

• The consultation paper

• Template for comments

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

• contain a clear rationale; and

• describe any alternatives the ESAs should consider.

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

Instructions

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

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

Publication of responses

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

Data protection

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

# General information about respondent

|  |  |
| --- | --- |
| Name of the company / organisation | Amundi |
| Activity | Investment Services |
| Are you representing an association? |[x]
| Country/Region | France |

# Introduction

Please make your introductory comments below, if any:

<ESA\_COMMENT\_PKID\_1>

Amundi is Europe’s largest asset manager by assets under management and ranks in the top 10 globally. It manages more than 1,500 billion euros of assets across six main investment hubs in Boston, Dublin, London, Milan, Paris and Tokyo. Amundi offers to a wide range of clients in Europe, Asia-Pacific, the Middle East and the Americas a wealth of market expertise and a full set of capabilities across the active, passive and real assets investment universes. Headquartered in Paris, Amundi was listed in November 2015.

Amundi welcomes ESAs’ new consultation on level 2 measures for PRIIPs Regulation and the possibility to propose workable solutions to various problems identified with the current state of this legislation.

Since the PRIIPs KID will replace the UCITS KIID in early 2022, it is of utmost importance that the information provided could be understandable by retail clients and valuable to professionals clients since the KID would have to be also provided to these clients. We stress on the fact that showing data which could lead to discussions and dissents with these clients should be clearly avoided.

**UCITS brand is recognised as one of the best success of EU regulation and it would be a real drawdown to damage it due to inadequate provisions in PRIIPs regulation that actors of industry have repeatedly denounced.**

While some improvement are introduced in the Consultation Paper (CP) such as opening the door to digital KIDs or providing somewhat better options to costs disclosures, nevertheless **the CP is not addressing the key issues**:

1. **Performance scenarios**: This topic has been addressed for long by the industry and whatever the approaches tested during the last four years, the various methods for future probabilistic scenarios always involved a specific issue without providing valuable information. Conversely, it can rather be a source of misunderstanding or of conflict, all the more with professional clients. Therefore **we would like ESAs and Commission to admit that “appropriate performance scenarios” – and not future scenarios – required in the level one text may take the form of an illustration without any assumption about the future.**
2. **Inclusion of the so-called “impact of orders” on market values, in transaction costs**. In so far as it is impossible to identify and to measure the real impact of most orders, the inclusion of such dubious data – which is not, as such, a cost – will create confusion. Transactions, when engaged, are meant to provide value to investors; therefore isolating these implicit costs without any reference to the benefit incurred is irrelevant. In fact, interests of the end investors and the PRIIP manufacturer are *de facto* aligned since they are both seeking positive performance, best execution and minimized cost in order to enhance returns.

**We therefore disagree that PRIIPS should be used to “promote effective competition” and “minimize costs” as suggested by the ESAs**. First of all, there is no mention at all of such an objective in the level 1 text. ~~A~~ Secondly, a fund with lower transaction costs will not necessarily generate better performances, which is what matters in the end for investors. Thirdly, best execution is already addressed under MiFID and has nothing to do with PRIIPs.

Fourthly, measuring and interpreting implicit transaction costs remain questionable: all methodologies are prone to technical bias. While there seems to be some consensus around what constitutes explicit transaction costs, it is still impossible to assert that a single methodology can be used to capture precisely implicit transaction costs across all asset classes. In addition, attributing precise reason to the change in price between the order and the execution is simply not feasible (i.e. it is impossible to be sure that the price movement is due to the execution of a specific order, so called “market impact”).

The introduction of these ‘implicit costs’ will also drive to a problem of coherency with costs figures that will be disclosed in the KID. In fact, the new proposal for costs is to show returns of the product before and after costs. Due to the inclusion of these implicit transaction costs, it will be impossible to recoup the gross return when adding costs to return net of costs. This point could generate commercial issues, especially with professional investors.

1. **Reduction in yield method for cost disclosures**. This approach - combined with the inclusion of implicit transaction costs - will have the consequence that it will be impossible for any accountant of a professional client to recoup the real level of annual costs calculated on the basis of disclosed percentages, with figures deriving from RiY and implicit transaction costs in the KID.
2. **Last but not least, it is essential that the KID remains simple and short enough.** One of the achievement of UCITS IV was the definition of key information that could fit within two pages.

Additional information will have to be included in the KID with reference to new EU requirements on sustainable finance. At this stage, nothing has been defined in relation to this and we hope that policy makers will opt for the most concise information as possible.

**The three pages limit in the level 1 text must remain a key objective of PRIIPs because the main initial objective of this regulation was that clients would read the document.**

<ESA\_COMMENT\_PKID\_1>

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

<ESA\_QUESTION\_PKID\_1>

As such, the fact that a printed KID has to be provided is not an obstacle to providing on line KIDs which could allow for simulations and inter-active relationship.

<ESA\_QUESTION\_PKID\_1>

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

<ESA\_QUESTION\_PKID\_2>

Yes we agree. In various cases it could be helpful for distribution of products.

<ESA\_QUESTION\_PKID\_2>

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

<ESA\_QUESTION\_PKID\_3>

In order to provide sufficient time for implementation, beginning of 2022 will be much better, all the more as it will match with the end of the UCITS KIID exemption.

<ESA\_QUESTION\_PKID\_3>

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

<ESA\_QUESTION\_PKID\_4>

No, we consider that a single step would be more appropriate.

<ESA\_QUESTION\_PKID\_4>

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

<ESA\_QUESTION\_PKID\_5>

Given the required timeframe which is needed for implementation, it is important not to postpone final changes in level 2 by adding further issues.

<ESA\_QUESTION\_PKID\_5>

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

<ESA\_QUESTION\_PKID\_6>

The proposed presentation and calculation of future performance scenarios is not satisfactory. For linear funds, in particular, such scenarios are not appropriate and should not be required in line with article 8 (3), d, iii of Level 1 Regulation[[4]](#footnote-5) which state that manufacturers must provide appropriate performance scenarios, without specifying “future”. The illustrative scenarios of the third page of the UCITS KIID for structured products are not future scenarios but they are appropriate since they provide a useful illustration of the formula’s mechanism. In this respect, probabilistic scenarios do not provide a meaningful nor reliable information and the cost of their calculation as asked by ESAs would be totally disproportionate, all the more for providing an information that can be detrimental.

Should ESAs insist for providing scenarios for linear funds, we would strongly recommend to adopt a simpler solution as considered in Section 5.7 of the consultation. This solution would consist in showing the highest return observed during the last 10 years (or twice the RHP) for the recommended holding period (RHP) as the favourable scenario, and the worst return observed similarly during the RHP as the unfavourable scenario. The medium scenario would be the average return on the RHP. ESAs would have to determine the frequency of observation: either quarterly or monthly. This solution is the so-called “compensatory mechanism” proposed by ESAs in Section 5.6 as the fall-back in case probabilistic scenarios would not provide satisfactory results.

**Against this background, we strongly recommend the adoption of this methodology as the main one**, since it is a clear and pragmatic solution rather than obliging to a costly, burdensome and doubtful exercise.

Of course, a warning should be added reminding that past performances do not prejudge future performances, as well as a short explanation of the functioning of each market (equity, bonds and monetary).

Showing minimum, maximum and average performance on RHP observed in the past (usually ten years) would provide a good illustration of what can happen and it would be very helpful to compare funds of the same category showing at first glance figures easy to read. Past performances as showed in the UCITS KIID are useful, in particular for the comparison with a benchmark when appropriate, but they do not allow for an easy comparison of performance between funds.

Example of how the scenarios could be shown:

|  |  |  |  |
| --- | --- | --- | --- |
| **Scenarios based on historical observations** | If you invest € 10 000 | Observed results | Results observed over a 5 years investment horizon, for the last 10 years  |
| Favourable | What you might get back after costs at the end of [RHP] years | XX XXX.XX EUR | Best performance observed over 5 years  |
| Average yearly return | XX.XX% |
| Average | What you might get back after costs at the end of [RHP] years | XX XXX.XX EUR | Average performance over 5years |
| Average yearly return | XX.XX% |
| Unfavourable | What you might get back after costs at the end of [RHP] years | XX XXX.XX EUR | Worst performance observed over 5 years |
| Average yearly return | XX.XX% |

<ESA\_QUESTION\_PKID\_6>

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

<ESA\_QUESTION\_PKID\_7>

Intermediate scenarios should not be included in order not to overburden the KID with overflowing information.

<ESA\_QUESTION\_PKID\_7>

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

<ESA\_QUESTION\_PKID\_8>

A stress scenario is not relevant as it would exacerbated the risk aversion of retail clients which is a major obstacle to European Financial markets’ development and at odds with the overall objective of an increase engagement of retail investors in capital markets. In addition, unfavourable, moderate and favourable scenarios are sufficient, and adding a stress scenario would only add confusion.

<ESA\_QUESTION\_PKID\_8>

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

<ESA\_QUESTION\_PKID\_9>

N/A.

<ESA\_QUESTION\_PKID\_9>

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

<ESA\_QUESTION\_PKID\_10>

We do not agree with this approach for the following reasons:

1. This approach is complex and challenging in terms of implementation by the industry and explanation to the consumers (as recognized in Section 5.7 of the consultation).
2. It needs a look-through analysis of the portfolios, which is overly burdensome in terms of IT tools and cost of data. Ultimately, this cost will be borne by the investors.
3. It is based on a snapshot of the positions (investments in underlying assets), which is not at all relevant, as the fund’s allocation can vary dramatically.
4. It is not applicable to funds investing in other funds, as the composition of the latter is not necessarily known.
5. It is not applicable to positions the currency of which is different from the fund’s currency.
6. We do not know how to apply the methodology to funds using leverage or to derivatives.

<ESA\_QUESTION\_PKID\_10>

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

<ESA\_QUESTION\_PKID\_11>

Cf. Q 10

<ESA\_QUESTION\_PKID\_11>

* : How should share buyback rates be estimated?

<ESA\_QUESTION\_PKID\_12>

Cf. Q 10

<ESA\_QUESTION\_PKID\_12>

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

<ESA\_QUESTION\_PKID\_13>

We disagree with this approach, and not only for MMFs, as all the scientific development in § 5.2 to 5.5 is quite incomprehensible.

<ESA\_QUESTION\_PKID\_13>

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

<ESA\_QUESTION\_PKID\_14>

Cf. Q 10

<ESA\_QUESTION\_PKID\_14>

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

<ESA\_QUESTION\_PKID\_15>

Cf. Q 10

<ESA\_QUESTION\_PKID\_15>

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

<ESA\_QUESTION\_PKID\_16>

When considering the question of performance scenarios, comparability is not a relevant objective since it is impossible to have a same appropriate methodology for products as different as linear funds, structured products or IBIPs.

<ESA\_QUESTION\_PKID\_16>

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

<ESA\_QUESTION\_PKID\_17>

No additional compensatory mechanism should be considered. <ESA\_QUESTION\_PKID\_17>

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

<ESA\_QUESTION\_PKID\_18>

The simplified approach proposed in Section 5.7 embeds three major disadvantages which are i) the fact that growth rates could be considered as arbitrary, ii) it is unclear how favourable, unfavourable and median scenarios will be calculated, and iii) unlike the method we propose in Q 6 it does not allow for reflecting the individual skill and capability of providing return of one fund compared to another of the same asset class (when considering linear funds).

<ESA\_QUESTION\_PKID\_18>

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

<ESA\_QUESTION\_PKID\_19>

Cf. Q 18

<ESA\_QUESTION\_PKID\_19>

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

<ESA\_QUESTION\_PKID\_20>

As explained earlier (reply to Q6), we consider that in most cases probabilistic methods are not relevant and that various methods have to apply to various types of products. The illustrative approach for structured UCITS is rather more relevant (see our replies below). Probabilistic methods do not fit well for linear products because they can only rely on global statistics by asset classes which do not provide valuable information for a specific investment strategy. In addition, long statistics series may result misleading as it would be the case for fixed income on a period of 30 or 40 years. Therefore we consider that the historical approach exposed in Q 6 would fit much better for these. Different methods should be considered for IBIPs as well as for category 1 and category 4 products. Conversely to category 2 products, the statistic level of return for assets of category 4 (real estates, infrastructures, private equity) or the expected return when it is known could be appropriate.

<ESA\_QUESTION\_PKID\_20>

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

<ESA\_QUESTION\_PKID\_21>

For years, the UCITS’ approach for structured products has proven to be very satisfactory. With respect to linear products, our proposed historical approach (cf. Q 6) is based on real data and allows for true comparisons between similar funds managed by different producers. For category 4 products, there is some evidence that methodologies based on annual return for assets which are not exposed to financial markets’ fluctuations could be relevant.

<ESA\_QUESTION\_PKID\_21>

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

<ESA\_QUESTION\_PKID\_22>

Cf. Q 21

<ESA\_QUESTION\_PKID\_22>

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

<ESA\_QUESTION\_PKID\_23>

Illustrative scenarios provided in the third page of the UCITS KIID for these funds have proven to be adequate for years and we do not see any benefit in introducing probabilistic scenarios. Arguments against illustrative scenarios, pointing out notably the discretion of the manufacturer, ignore the fact that these scenarios are submitted to the agreement of NCAs as part of the documentation of the structured UCITS before its launch.

<ESA\_QUESTION\_PKID\_23>

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

<ESA\_QUESTION\_PKID\_24>

Illustrative scenarios should be kept for structured products since they have proven to be perfectly relevant, useful for clients and easy to control by regulators. Therefore, a mix of probabilistic and illustrative scenario would not, in our view, provide any added value but could rather mislead clients.

In addition, we would like to take the opportunity of these two questions to state that the introduction of future performance scenarios in PRIIPs is the result of a misunderstanding by policy makers of the real purpose of the third page of the UCITS KIID, i.e. the provision of illustrative scenarios to showcase formula’s mechanism of structured funds.

<ESA\_QUESTION\_PKID\_24>

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

<ESA\_QUESTION\_PKID\_25>

Yes we do as mentioned above.

<ESA\_QUESTION\_PKID\_25>

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

<ESA\_QUESTION\_PKID\_26>

Yes of course, for linear products of category 2 and for open-ended funds of category 4.

<ESA\_QUESTION\_PKID\_26>

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

<ESA\_QUESTION\_PKID\_27>

**We consider of utmost importance to keep a maximum of 3 readable pages for the KID.** It is one of the major value of this document to present characteristics of a product in a concise and as simple as possible way to retail investors.

<ESA\_QUESTION\_PKID\_27>

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

<ESA\_QUESTION\_PKID\_28>

This approach could make sense for some types of life-insurance products; it is up to insurers to answer more precisely.

<ESA\_QUESTION\_PKID\_28>

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

<ESA\_QUESTION\_PKID\_29>

We have no specific comment on that statement.

<ESA\_QUESTION\_PKID\_29>

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

<ESA\_QUESTION\_PKID\_30>

It would be necessary to explain how performance scenarios are calculated when based on the method developed in Q 6.

<ESA\_QUESTION\_PKID\_30>

* : Do you see merit in further specifying the cases where the UCITS/AIF should be considered as being managed in reference to a benchmark, taking into account the provisions of the ESMA Questions and Answers on the application of the UCITS Directive[[5]](#footnote-6)?

<ESA\_QUESTION\_PKID\_31>

The description of the investment strategy is meant to provide this information, where relevant.

We had already discussions with ESMA with respect to its UCITS Q&A’s update of March 2019. In this regard, we would like to reaffirm our strong disagreement with ESMA’s interpretation of article 7(1) (d) of the UCITS Regulation on whether a given investment approach “includes or implies a reference to a benchmark”. According to the answer, it is sufficient for a benchmark index “to play a role in the management of the UCITS” for the management company to have to disclose it in the KIID, especially in past performances.

In the answer provided by ESMA, uses of benchmarks for portfolio construction, for the calculation of performance fees, or for setting internal risk limits, or else for remuneration of individual staff or for contracts with third parties are placed on the same level which is quite irrelevant.

Clearly, the fact that an index is “playing some role” in the management of a UCITS is not sufficient to categorise the management of the fund as benchmark dependent; a well described investment strategy is deemed to provide sufficient elements for defining the status of the fund in relation to any benchmark.

A strict interpretation of the answer to Question 8b in the current UCITS Q&As would lead to present multiple indices in the past performances bar chart of the PRIIPs KID, making it incomprehensible. It would also lead us to waste money, buying costly data to benchmark providers for irrelevant purposes.

Amundi, therefore, believes that the transition from a UCITS KIID to a PRIIP KID would be the opportunity for ESMA to review its current interpretation of Article 7(1) (d) of UCITS Regulation.

<ESA\_QUESTION\_PKID\_31>

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

<ESA\_QUESTION\_PKID\_32>

No we do not.

<ESA\_QUESTION\_PKID\_32>

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

<ESA\_QUESTION\_PKID\_33>

Yes, the proposed intermediate time of 5 years for funds with a RHP superior to 8 years seems appropriate. Nevertheless, we are not in favour of keeping an intermediary time period since this information does not provide real value and the KID has to be kept as short as possible.

<ESA\_QUESTION\_PKID\_33>

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

<ESA\_QUESTION\_PKID\_34>

We are in favour of a fixed time period defined according to the RHP. More precisely and according to the proposal, we would recommend to adopt a fixed time period of:

* For RHP up to 5Y: 3Y
* For RHP above 5Y and up to 10Y: 5Y
* For RHP above 10Y: 10Y

NB: In the specific case of Maturity funds, the time period should be the maturity

<ESA\_QUESTION\_PKID\_34>

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

<ESA\_QUESTION\_PKID\_35>

We are in favour of the first option since it is more in line with the usual information provided to investors.

<ESA\_QUESTION\_PKID\_35>

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

<ESA\_QUESTION\_PKID\_36>

No, if table 1 shows costs for an investment of 10,000€, then the total cost should be in the same format for the sake of clarity and simplicity for the retail investor. Providing too much figures may be overwhelming for investors.

<ESA\_QUESTION\_PKID\_36>

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

<ESA\_QUESTION\_PKID\_37>

No we are not aware of fund PRIIPs applying both performance fees and carried interests.

<ESA\_QUESTION\_PKID\_37>

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

<ESA\_QUESTION\_PKID\_38>

No we do not agree at all. Such an inclusion of real estate management costs would be quite as irrelevant as including wages of people employed in firms invested in by Private Equity funds. For real estate funds, the only costs which have to be added to usual fund’s costs are those related to the relation with tenants renting those estates and to fees paid in case of delegation of operations that are in the manager’s scope of activities. Other costs related to real estates must be excluded since they are necessary to keep them in good condition and, quite often, since they contribute to their valuation.

<ESA\_QUESTION\_PKID\_38>

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

<ESA\_QUESTION\_PKID\_39>

We clearly do not agree with option 3 for two main reasons : i) disclosing a level of return for the product in the cost table leads to mixing a real data (the costs) with an assumption (the return) which would be confusing and could end up with claims from clients, unless providing extensive explanation which would make the KID even longer, ii) only providing monetary amounts in table 2 instead of percentages for the various types of costs is in complete contradiction with usual way of disclosing funds’ costs in the KIID and in prospectuses.

In addition, let us recall here the comment in our introduction on **the reduction in yield approach which introduces complexity** when taking into account the impact of costs withdrawn from the fund on its return. We consider that the precision added does not compensate the complexity introduced, especially when professional will try to recoup information provided on costs in table 2.

<ESA\_QUESTION\_PKID\_39>

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

<ESA\_QUESTION\_PKID\_40>

None of the options proposed seems clear and simple enough for retail investors.

If ESAs want to maintain the RiY approach despite its detrimental effect explained in Q39, we would rather propose to keep the Table 1 as described in the RTS, but disclosing the Total costs & RIY in monetary terms instead of percentages. We think that it is much better to keep the spirit of displaying in € the performance, the total costs and the RIY for an investment of 10,000€ . Thus, we stick to the objective to display real numbers without the need for the reader to make any calculation.

|  |  |  |
| --- | --- | --- |
| **If you invest € 10 000** | **Costs incurred during the 1 Year**  | **Costs if you exit at the end of the RHP** |
| Total costs over time per year in €  |  €  | €  |
| Reduction in return each year due to costs in € | € | € |

As for Table 2, the objective is slightly different, i.e. to disclose precisely the breakdown of the ex-ante costs for the fund. In this case the current market practice is to display these information in percentages.

|  |
| --- |
| **Type of costs** |
| **One-off costs** | Entry costs | x% of the amount invested acquired to the fundAn additional entry fees can be charged by the person selling/advising you the fund |
| Exit costs | x% of the amount invested acquired to the fund if you exit the fund before maturity |
| **Ongoing costs** |   | x% of the value of your investment per year  |
| **Transactions costs** |   |  x% of the value of your investment per year (estimate of the costs of us buying and selling underlying investments for the product)  |
| **incidental costs** | Performance Fees (or carried int.) | x% plus Description of the formula  |

<ESA\_QUESTION\_PKID\_40>

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

<ESA\_QUESTION\_PKID\_41>

No, we do not think that adding the Returns (before & after costs) would be an improvement for reasons explained in Q39. In addition to these reasons, let us mention that gross performance would be difficult to obtain and would not necessarily be equal to [net performance + RIY].

<ESA\_QUESTION\_PKID\_41>

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

<ESA\_QUESTION\_PKID\_42>

Yes, we would stress on the fact that the total costs disclosed in table 1 should only be the costs attached to the management of the product;

1. Any other additional fees such as **entry fees charged by the distributor** / advisor should not be included in table 1. Nonetheless they should still be described in table 2 as an indicative data both for clients and for distributors, the exact amount being provided directly by the distributor/Advisor.
2. For **Products with target maturity** (Structured funds, Buy & Hold, Private Equity), we recommend to disclose the cost over time only at the RHP.

<ESA\_QUESTION\_PKID\_42>

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

<ESA\_QUESTION\_PKID\_43>

The way this question is raised is quite surprising. As mentioned in our reply’s introduction to this consultation, the inclusion of implicit transaction costs is a nonsense for all reasons we already mentioned. This being said, in case regulators would maintain the inclusion of implicit costs, then the option 2 would be less detrimental than option 1. Option 1 would be very problematic for several reasons : the deletion of negative slippages when calculating the average would aggravate the disclosure, and the cost of data for arrival prices would be completely disproportionate as well as absurd when considering the dubious information provided. In case option 1 would be selected, then it is absolutely necessary to withdraw any inclusion of implicit costs for trades placed at the market closing price (for equities mainly) since auctions do not include any bid-ask spread.

As of thresholds, they are very low and would be useless and inefficient. In any case, the impact of subscriptions and redemptions have to be withdrawn from the turnover since the manager has no levy to reduce them.

<ESA\_QUESTION\_PKID\_43>

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

<ESA\_QUESTION\_PKID\_44>

The solution of having a single document i.e. a PRIIPs KID would be preferable but an adaptation would be necessary for MMFs, in particular with regards to performance scenarios which would not be relevant at all for these funds.

<ESA\_QUESTION\_PKID\_44>

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

<ESA\_QUESTION\_PKID\_45>

There are specific changes in funds that oblige Management Companies or distributors to sell a letter to units holders. This should also prevail in the case of regular savings plan.

<ESA\_QUESTION\_PKID\_45>

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

<ESA\_QUESTION\_PKID\_46>

It seems that this article which refers to share classes only applies to UCITS and AIFs.

<ESA\_QUESTION\_PKID\_46>

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

<ESA\_QUESTION\_PKID\_47>

The provision of ESMA’s Q&A 5 referring to clear language could be extended, all the more for what can make the KID shorter. Conversely, the requirement in Q&A 7 is a consequence of provisions in UCITS V regulation that address staff remuneration policy. It could be complex to extend such requirement to other types of products which are not submitted to similar provisions, with the risk of delaying the PRIIPs’ review. Restricting this requirement to UCITS and AIF Management Companies would introduce unlevelled playing field. We are of the opinion that this information is unnecessary and that space should not be wasted in the KID for it.

<ESA\_QUESTION\_PKID\_47>

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

<ESA\_QUESTION\_PKID\_48>

These requirements could be extended to other types of PRIIPs, only where relevant and not systematically.

<ESA\_QUESTION\_PKID\_48>

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

<ESA\_QUESTION\_PKID\_49>

It is important to keep the KID as short as possible. When considering UCITS requirements, ESAs should only import in PRIIPs those which are clearly complementary.

<ESA\_QUESTION\_PKID\_49>

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

<ESA\_QUESTION\_PKID\_50>

N/A.<ESA\_QUESTION\_PKID\_50>

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

<ESA\_QUESTION\_PKID\_51>

N/A

<ESA\_QUESTION\_PKID\_51>

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

<ESA\_QUESTION\_PKID\_52>

N/A

<ESA\_QUESTION\_PKID\_52>

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

<ESA\_QUESTION\_PKID\_53>

N/A

<ESA\_QUESTION\_PKID\_53>

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

<ESA\_QUESTION\_PKID\_54>

It would probably be more efficient to disclose the costs of the contract in the generic KID and to refer, in this generic KID, to funds’ KID where information on their own costs is provided so that investors may add these costs to those of the contract.

<ESA\_QUESTION\_PKID\_54>

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

<ESA\_QUESTION\_PKID\_55>

N/A

<ESA\_QUESTION\_PKID\_55>

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

<ESA\_QUESTION\_PKID\_56>

N/A

<ESA\_QUESTION\_PKID\_56>

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

<ESA\_QUESTION\_PKID\_57>

N/A

<ESA\_QUESTION\_PKID\_57>

1. COMMISSION DELEGATED REGULATION (EU) 2017/653 of 8 March 2017 supplementing Regulation (EU) No 1286/2014 of the European Parliament and of the Council on key information documents for packaged retail and insurance-based investment products (PRIIPs) by laying down regulatory technical standards with regard to the presentation, content, review and revision of key information documents and the conditions for fulfilling the requirement to provide such documents [↑](#footnote-ref-2)
2. Regulation (EU) No 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products (PRIIPs), OJ L 352, 9.12.2014, p. 1. [↑](#footnote-ref-3)
3. Regulation (EU) 2018/1725 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, OJ L 295, 21.11.2018, p. 39. [↑](#footnote-ref-4)
4. Regulation N° 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) [↑](#footnote-ref-5)
5. See “Section II – Key Investor Information Document (KIID) for UCITS” (in particular, Q&A 8) of the Q&A document available at: https://www.esma.europa.eu/sites/default/files/library/esma34-43-392\_qa\_ucits\_directive.pdf [↑](#footnote-ref-6)