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| 16 October 2019 |

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

Responding to this paper

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

The consultation package includes:

• The consultation paper

• Template for comments

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

• contain a clear rationale; and

• describe any alternatives the ESAs should consider.

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

Instructions

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

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

Publication of responses

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

Data protection

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

# General information about respondent

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

# Introduction

Please make your introductory comments below, if any:

<ESA\_COMMENT\_PKID\_1>

**Executive Summary**

**Scope of the review**

**AMAFI considers that PRIIPs revision should include the Level 1 text.** Indeed, it seems impossible to resolve some issues (for example regarding the RiY) without making some amendments to the   
Level 1. To avoid any more disruptive effect, AMAFI considers that all texts should be revised at the same time.

**Objectives of PRIIPs Revision**

AMAFI outlines that PRIIPs Revision should meet 2 objectives:

1. **Improve the quality of information provided to retail investors**
2. **Simplify the regime**, to make the KID more understandable by retail investors and less complex for manufacturers to implement and comply with, while preserving some continuity with the current Version 1 KID.

To that end, amendments should be targeted to what is necessary to improve and avoid any over complicated and costly changes for all stakeholders (including avoiding any overflow of information provided within the KID). Indeed, the transition should not be too disruptive versus the existing KID, to which advisors and distributors are now used to. The key area of focus should be a change of the methodology of calculating performance scenarios as well as simplification of the cost tables.

**Timeline for application of PRIIPs RTS “version 2” and “grandfathering clause”**

In AMAFI’s view, to facilitate the understanding of the changes for all stakeholders including investors, all the amendments proposed in the consultation paper should entry into force **in one time** and **at the beginning of 2022 for all PRIIPs**.

It is also essential that **ESAs should provide a “grandfathering period”**, no longer that **one year**, for Category 3 PRIIPs issued before the entry into force of the new DR that will still be available to investors.

**Performance scenarios**

**AMAFI is strongly opposed to any use of illustrative scenarios** both on stand-alone and combined with probabilistic scenarios for many reasons and **particularly for derivatives and structured products (for Category 1 and 3 PRIIPs).**

* **Illustrative scenarios deprive investors from relevant and reliable information** on performances (such as potentially low exit values or low stress scenarios) and raise significant issues of comparability and consistency between PRIIPs and among manufacturers.
* **Such scenarios are impossible to implement in a unified way** **due to the diversity of products** across the EU. Defining regulatory guidelines that would limit discrepancies among product categories and/or among manufacturers of the same type of product and updating them regularly would also be an extremely complex exercise. This may result in goldplating by NCA.
* **They cannot be automatized** which is very problematic when a high number of products and a large spectrum of payoffs are involved, as is the case for structured products and derivatives.
* They might **not** **rightfully reflect the behaviour of complex path-dependent products**.
* This will lead to **a major inconsistency** for structured products which are wrapped within an insurance wrapper turning it into an IBIP: **the same product would be treated completely differently (illustrative *vs.* probabilistic)**.

**AMAFI supports the exclusive use of probabilistic scenarios and ESAs’ proposal to remove the historical drift that indeed should be replaced by a reference rate and an asset specific risk premium.** With the objective of comparability in mind,such approach is the most relevant one and seems granular enough to provide good information to investors. Probabilistic scenarios are indeed the best option for derivatives and structured products (Category 1 and 3 PRIIPs).

However, AMAFI has some divergences with the ESAs proposalsfor identifying the reference rate and the risk premium. We especially **disagree with a decomposition of risk-free rate per country**, and per sector**. A risk premium per asset class, fixed and provided by the ESAs is the best solution.**

Regarding the presentation of performance scenarios, AMAFI **is opposed to introducing the mention “*this is the maximum/minimum you can get*”** as it represents a huge technical challenge because this is impossible to implement in a unified and consistent way across the same product category   
(*e.g.* for autocalls, the maximum return depends on the early redemption date). Moreover, it would not be relevant in some cases where losses or gains are potentially unlimited.

**AMAFI is of the view that the IHP used in performance scenarios and costs tables should be the same to be consistent for the sake of retail investor’s understanding**.

**Cost presentation**

**AMAFI supports combining the Table 1 of the Option 1 (and, ideally, not use a RiY but a TER) and the Table 2 of the Option 2** considering that:

1. Cost table should be simplified and not complexified by providing investors more and more figures;
2. RiY indicator should be removed, both because most investors do not understand it and because it is not consistent with MiFID 2.

On the contrary, **AMAFI rejects** **Option 3 which contains to many data points (33 data points)** and is even more complex to understand than the current regime. AMAFI also rejects Option 4 because costs are not displayed in percentage and some of them may be repeated several times which is not easily understandable

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**About AMAFI**

***Association française des marchés financiers* (AMAFI)** is the trade organisation working at national, European and international levels to represent financial market participants in France. AMAFI members consist of investment firms and credit institutions (French, European and global firms), operating in and/or from France (corporate and investment banks (CIBs), brokers-dealers, exchanges, and private banks). **AMAFI is deeply involved in all regulatory matters that concern financial instruments** (MiFID, PRIIPs, intervention measures and product bans, AMF framework on product complexity, etc.). **As far as financial products are concerned, we mostly represent all issuers/manufacturers of products (CIBs) and, through our private bank members, distributors as well.** AMAFI has more than 150 members operating in equities and fixed-income and interest rate products, as well as commodities, derivatives and structured products for both professional and retail clients.

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AMAFI welcomes the opportunity to give feedbacks on ESAs’ Joint Committee’s (hereafter “ESAs”) proposed amendments to the PRIIPs KID. Indeed, AMAFI is particularly attentive to this regulation which has a considerable impact on its members. This is why AMAFI previously provided several feedbacks to the main stakeholders about issues encountered by members since the entry into application of PRIIPs.

**Taking into account the typology of its members, the developments formulated below by AMAFI only concern structured and derivatives products (Category 1 and 3 PRIIPs).**

Please find here below our detailed answer as presented in the ESAs CP and here attached our draft amendment proposals.



<ESA\_COMMENT\_PKID\_1>

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>

None that AMAFI is aware of.

<ESA\_QUESTION\_PKID\_1>

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>

AMAFI considers that such development might be helpful but should be undertaken in closed cooperation with distributors that would play a pivotal role in the effective dissemination of this information to the end investors.

In that context, we may outline that for exchange of data contained in the KIDs between manufacturers and distributors, there are already existing platforms and templates, such as the EPT (“European PRIIPs Template” – drafted by FinDaTex – ex-European Working Group).

However, it may be important to note as well that the narrative section (*e.g.* product description) cannot really be considered as a meta-data given the large diversity of possible structured payoffs.

<ESA\_QUESTION\_PKID\_2>

1. : 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 AMAFI’s view, **all products captured by PRIIPs (both UCITs and existing PRIIPs) should apply the revised RTS on the same application date on beginning of 2022** for the following reasons:

* Investors are used to the current KID and will need time to adapt to the new one.
* Distributors will also need to be trained on the changes. We believe it will be easier to explain changes if all products switch to the new version at the same time.
* For structured products, technically the KID generation set-up under the current RTS are very heavy IT workflows: manufacturers will need appropriate time to implement and test the required changes to adapt their set-up.

Moreover, AMAFI considers as important that amendments **should be finalized after and taking into account conclusions of consumers testings** to ensure that the future KID meets investors’ needs.

It is also important to note that "existing PRIIPs" (i.e. Category 1 and 3 PRIIPs) made available to retail investor before the entry into force of RTS V2 need a **“grandfathering clause” for a period of 1 year**.

Indeed, from the entry into force of the revised DR (1st January 2022), KIDs would be produced taking into account the numerous changes. For “existing PRIIPs” already available to retail investors before this date, it would be difficult to change all the existing KIDs as it will represent a huge volume of products. Manufacturers need the “grandfathering” period to have the time to make those changes.

More importantly, without this “grandfathering clause”, consumers investing in the same PRIIP either just before or after 1st January 2022 will not have the same KID and so will have different information which is not compliant with the principle of treating fairly clients.

During this period, for “existing PRIIPs”, manufacturers will be allowed either to use the initial template (“KID V1”) or, if they are ready switch their existing products to the new template (“KID V2”).

Moreover, this “grandfathering period” is consistent with the requirement to review at least annually the information contained in the KID (*PRIIPs DR, art. 15.1*). It makes no sense to oblige manufacturers to review their KID earlier if they have no reason to do so (i.e. if there is no change that (is likely to) significantly affects the information contained in the KID).

From the end of the “grandfathering” period (1st January 2023), all PRIIPs still made available to retail investors will have the same template (the revised one).

<ESA\_QUESTION\_PKID\_3>

1. : 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, in AMAFI’s view a graduated approach should not be considered** for the reasons detailed below:

* Both retail investors and distributors will need to be trained and explained the new version of the KIDs. In our view, **amending the format several times would only be a source of confusion** for both.
* For manufacturers, **considering the technical implementation challenges, a single application date for all changes is necessary** (e.g. it would make no sense to present costs tables with new IHP rules while keeping the current rules for performance scenarios).

<ESA\_QUESTION\_PKID\_4>

1. : 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>

1. **Grandfathering period**

As mentioned in our answer to Q3, it seems essential to provide a “grandfathering period” for PRIIPs issued before the entry into force of the new RTS.

1. **Scope**
   1. Bonds

Like ICMA says in its response to this consultation, “*Vanilla bonds’ scope is still problematic*”. Notwithstanding the 24 October Joint ESA Supervisory Statement ([*JC-2019-64*](https://esas-joint-committee.europa.eu/Publications/Letters/JC%202018%2021%20%28PRIIPs%20Joint%20Letter%20to%20COM%20on%20Scope%29%20GBE.pdf)), differing views and so uncertainty endure in the market as to what may be interpreted as ‘packaged’ or not. “*Should the European Commission feel that EEA retail investors should be generally able to directly invest in vanilla bonds, then it would need to ensure the PRIIPs legislation itself is clearly understood to exclude vanilla bonds*”.

* 1. Vanilla derivatives (physically settled)

AMAFI also wishes to clarify the application of PRIIPs to vanilla derivatives which are physically settled. In our view, such products do not fall within the scope of PRIIPs because the amount repayable to retail investor is not subject to fluctuation (as all cash flows are know in advance) so they do not fall within the scope of Article 4.1 of PRIIPs.

Nevertheless, some competent authorities believe that a KID is required for those products. To avoid distortion between countries, a clarification from the ESAs or the Commission is welcome.

1. **Taking into account PRIIPs with special features**
   1. PRIIPs with RHP of less than one year

Regarding PRIIPs with a RHP of less than one year, AMAFI fully approves the solution provided by the ESAs in their Q&A document. Nevertheless, this solution does not comply with the requirement as provided in the DR. Therefore, **AMAFI proposes to amend the DR accordingly.**

On this point, to ensure the comparability of KIDs and to facilitate their reading, it would seem preferable that the narratives to be added be prescribed in order to avoid national distortions. AMAFI proposes to prescribe the following narrative: “*However, since the reference period of the product you are considering purchasing is less than one year, the estimated returns and costs are presented on a non-annualised basis. As they stand, these figures are not comparable with those obtained for products with a recommended holding period of at least one year, for which data would be calculated on an annualised basis*”.

AMAFI would also like to note that the ESAs seemed to forget proposing amendments to the DR to allow manufacturers:

(1) to delete, in those situations, the inaccurate sentence “*You can compare them [the illustrations on how your investment could perform] with the scenarios of other products*”, below the table presenting performance scenarios results; and

(2) to amend accordingly the sentence above the cost tables: “*The amounts shown here are the cumulative costs of the product itself, for* ***[one holding period / two different holding periods /*** *three different holding periods****]****. They include potential early exit penalties. The figures assume you invest [EUR 10 000 (OR EUR 1 000 each year for regular premium PRIIPs)]. The figures are estimates and may change in the future*”.

* 1. Calculating costs for products when the moderate scenario shows a total loss of capital invested or more

AMAFI thanks the ESAs for taking into account the issue[[4]](#footnote-5) of calculating costs for products when the moderate scenario shows a total loss of the capital invested or more (i.e. is less than or zero) for the moderate performance scenario (*ESAs Q&A, “Calculation of the summary cost indicators”, Question 4*). Nevertheless, AMAFI considers that the answer provided (replacing the return by 3%) does not solve the problem. Indeed, it creates a sudden threshold effect with product delivering very low returns and significantly undermines the comparability between products. This threshold effect is detrimental and difficult to justify to investing retail clients.

Also, applying the 3% growth assumption to all PRIIPs regardless of the moderate scenario results would bring confusion and misunderstandings as the whole KID would lack consistency, not to mention that such rough assumption would be very hard to explain to retail investors.

For these reasons, AMAFI feels that it should be possible to apply alternative solutions in such cases. For example, a cost floor could be determined that would replace or that would be added to zero values where a product generates a zero or negative return.

Finally, AMAFI wishes to highlight that this issue will be solved if the ESAs decide to remove any reference to the RiY in the costs section and disclose only the TER (in this point, see our answer to Q36).

* 1. Products with an autocallable feature

To address the issue of “autocallable products”, AMAFI proposes the following solutions:

1. not accruing time values of auto-call payments[[5]](#footnote-6) (including coupons) and follow Recommendation 4 from the September 2018 recommendations document published by EUSIPA ([link](https://eusipa.org/wp-content/uploads/EUSIPA-PRIIPs-RTS-final-recommendations_SUMMARY_with-additional-context_SEP2018_version1_FINAL_for-publication.pdf)); and/or
2. optionally, add a symbol, for example an asterisk, in the boxes for which the product would be called before the end of the calculation period and adding a short narrative below the table explaining the results;
3. in any cases, compute the performance scenarios (negative 10% percentile, moderate 50% percentile and favourable 90% percentile) of each holding period independently of results of subsequent holding periods (which is the current methodology used by the industry and promote by EUSIPA).
4. **Fulfilling the KID of derivatives**
   1. Performance scenario modelling

AMAFI notes that the PRIIPs methodology for scenario modelling was designed with funded products in mind. Therefore, the future performance of unfunded derivatives (Category 1 PRIIPs) must be simulated using a fictitious initial investment that is repaid at maturity. In the absence of a more appropriate methodology, we believe that such fictitious initial investment should be clarified. For example it is not clear to decide what to use for options (premium – actual cash flow or notional – for consistency with swaps?) and for interest rate swap with amortized/accreting/rollercoaster notionals (initial notional or average notional? – to answer this question it should be born in mind the fact that scenarios results must be presented for an initial/average “investment” of [EUR 10,000]).

* 1. Computation of the SRI

AMAFI finds damaging that for all derivatives (Category 1 PRIIPs) – whatever their level of risk and complexity – manufacturers must systematically put the risk indicator (SRI) at 7 (*PRIIPs RD, Annex II, Paragraph 8*). Indeed, this requirement does not allow the retail investor to discriminate between derivative products bearing different risks, for example: a short position versus a long position or an IRS versus an IRS with a floor where the potential loss for the fixed rate payer is limited. Also, retail investors do not understand why a product which is supposed to hedge their risk is presented as so risky in the KID (derivatives may be used to hedge risks incurred by retail investors, especially small companies which cannot be considered as professional clients).

Also, AMAFI proposes that the amended text allows manufacturers to add an **optional narrative for hedging products** explaining that the SRI disclosed in the KID is determined independently of any other position that investors may intend to hedge through such products.

* 1. Adapt the prescribed wording of KIDs

To avoid legal uncertainty, AMAFI proposes to insert within the DR the derogations allowed for derivatives by the ESAs in their Q&A regarding the prescribed wording in the KID template (*ESAs Q&A, “Derivatives”, Question 5*).

1. **Issues raised from the proposed amendments to the RTS in the Consultation Paper**
   1. Presentation of performance scenarios

**AMAFI totally disagrees with introducing the mentions “*this is the maximum/minimum you can get*” in the performance scenarios section.** The dynamic text in the performance scenarios table in case of maximum return displayed is impossible to implement in a unified and consistent way for structured products since there is a variety of payoffs and features. In addition, when early redemption is possible (e.g. callable and autocallable products), it is unclear what is the maximum return (i.e. IRR/annualised return? Maximum absolute return?). The challenge is the same regarding the “minimum return”, should it be considered at 0 every time (considering the default risk of the manufacturer)? Also, this information is not relevant for products for which investors may bear unlimited losses (e.g. short position in derivatives) or may get unlimited gains (e.g. uncapped payoffs).

* 1. Rounded data

More anecdotally, contrary to what is proposed in the “new” Paragraph 22 of Annex IV, AMAFI believes that rounding the performance to the nearest 10 EUR is not precise enough (for instance for a coupon of 3.15% per annum, we would need to round 10 315 EUR to either 10 320 EUR or 10 310 EUR). Hence, we propose to **round the numbers to the nearest euro** to avoid misleading data between EUR and percentage return.

<ESA\_QUESTION\_PKID\_5>

1. : 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>

**AMAFI strongly rejects the proposal to use “only illustrative scenario” for structured products or a “combination of probabilistic and illustrative scenarios”.** For derivatives and structured products (Category 1 and 3 PRIIPs), those proposals raise significant issues:

* Purely illustrative scenarios **do not comply with Level 1 text** that indicates “*the format and content of the key information document to be drawn up by PRIIP manufacturers and on the provision of the key information document to retail investors in order to enable retail investors to understand and compare the key features and risks of the PRIIP*” (*PRIIPs, Article 1*).

Indeed, this solution would lead to a great heterogeneity in the performance scenario presentation both among the various product categories and within manufacturers of a same type of product.

* Illustrative scenarios are **impossible to implement and automate in a consistent and unified manner because of the diversity of structured products return profiles across EU countries**.
* Comparability is fully lost within Category 3 PRIIPs as it is not probabilistic based, every manufacturer can have different rules, which leaves the door open to deviations or “misuse”.
* Illustrative scenarios on their own **hide information to investors such as potential dispersion of the product valuations**, or low potential valuation in case of stress at intermediate holding periods.
* Sometimes structured products are wrapped within an insurance wrapper turning it into an IBIP. As described in Section 6.1.3 of the CP, illustrative scenarios are not considered at this stage for IBIPs. This will lead to a major inconsistency: the **same product would be treated completely differently (illustrative *vs*. probabilistic) in case it is offered under a different wrapper.**
* Illustrative scenarios would not be able to capture all the subtleties of complex path dependent products.
* Finally, the use of illustrative scenarios in the KID is the **most disruptive way to go further**. It would require significant changes in manufacturers’ process in place since 2018, including notably training again distributors and advisors.

As a result, AMAFI wants to keep only probabilistic scenarios in the KID of Category 1 and 3 PRIIPs.

This solution has several advantages such as the ones described in Section 5.2 of this consultation paper: it allows investors to compare all products and it does not require manufacturers to use or create complex models.

Regarding other modifications proposed:

* We believe that one intermediate holding period can be kept (the 1 year) for the reason developed in Q7. Nevertheless, whatever the solution adopted by the ESAs, it is essential that it applies to the performance scenario and the costs tables so that the information is consistent and easier for the investor to understand.
* We are against the addition of the estimated probability of each scenario as percentile can be mis-interpreted as deterministic outcomes by some retail investors.
* We are neither strongly in favour nor against deleting the stress scenario (on this point, please see our answer to Q8).
* **We are totally against adding a row showing the minimum (or the maximum) investment return**. Dynamic tables are very difficult (or even impossible) to implement and the information could easily be misunderstood by retail investors as implying a degree of certainty, despite all possible narratives. If the minimum scenario has to take into account credit risk of the issuer or the repackaged asset, then all products would have a minimum scenario of 0, so this would not bring relevant information.
* We are against the addition of past performance especially for Category 3 PRIIPs as structured products do not have past performance. The same is true for exotic derivatives in Category 1 PRIIPs.

<ESA\_QUESTION\_PKID\_6>

1. : 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>

**AMAFI’s preference would be to keep one IHP (the current 1 year)** and to delete the RHP/2 for the reasons developed below:

* Fully principal protected long dated products are common in some markets (France, Belgium, UK), and investors need to be aware of the dispersion of the product valuations if they decide to exit at an early date notably to show the absence of capital protection prior to the RHP. It would be misleading to remove the IHP and hide the negative and stress valuations in the course of the life of a product.
* Deleting all IHPs makes it more difficult to visualize the assumptions taken for autocallables (even if explanatory notes are added).

|  |  |  |
| --- | --- | --- |
| **RHP** | **Cost table** | **Scenario table** |
| RHP <= 1Y | displaying scenario @RHP | displaying costs @RHP |
| 1y < RHP | displaying scenario @ 1Y, RHP | displaying costs @ 1Y, RHP |

Nevertheless, AMAFI is not strongly opposed to the deletion of all IHP, for the sake of simplifying information provided to investors.

**The most important point on this issue is to ensure a consistency between what is presented within the performance scenario and costs section of the KID.**

**AMAFI is of the view that such sections should be totally consistent for the sake of retail investor’s understanding**. Indeed, if IHPs are removed in the performance scenarios table they also should be deleted in the costs table. Costs are already difficult to understand for retail investors (due to the use of RiY – on this point see our answer to Q36), if they are computed using data (i.e. performance) which are not shown to investors, those investors will never understand how the manufacturer has determined the costs presented.

If the ESAs decide to keep one (or several) IHP, AMAFI recommends keeping the current calculation methodology and still incorporate exit costs for intermediate holding period results. Indeed, the current issue of performance scenarios results is linked to the principal methodology (used of ‘historical drift’) and not to the adaptation for IHP.

<ESA\_QUESTION\_PKID\_7>

1. : 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>

AMAFI understands the necessity to limit the number of information and data communicated to retail investors in order to focus of the most relevant ones. Nevertheless, AMAFI believes that, in some situations, the stress scenario can be useful for investors especially where the negative scenario does not show any capital loss (for example for principal at risk products with low barriers). Also, in our experience, the current stress scenario methodology leads to quite appropriate results and not many questions from clients.

That is why AMAFI is neutral about its deletion.

**If the ESAs decide to keep this scenario, like in the current DR, it should have the same methodology (i.e. drift and percentile) as the others (besides the focus on volatility)**. However, to avoid any confusion on the investors’ side AMAFI recommends a simple adjustment in the new DR to specify that the three other scenarios (unfavourable, moderate and favourable) **should be floored** at the level of the stress scenario

<ESA\_QUESTION\_PKID\_8>

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

<ESA\_QUESTION\_PKID\_9>

**AMAFI is in favour of keeping the probabilistic methodology to compute performance scenarios results**. As mentioned by the ESAs, to correct the current inappropriate expectations some adjustments should be made to the methodology. **AMAFI agrees with the ESAs conclusions which consider that this issue is caused using an “historical drift” which should be replaced by the sum of a reference rate and an asset specific risk premium.**

Nevertheless, **AMAFI has some divergences with the ESAs proposals for identifying the reference rate and the risk premium.**

Regarding the reference rate, this cannot be the “*interest rate curve derived from sovereign bond prices of the country of the asset*” as many PRIIPs have multi-country components notably the ones that have for underlying multi-countries or thematic benchmarks (e.g. which rate should be used for products based on Eurostoxx 50?).

To solve this issue, **AMAFI proposes that for equity, FX and rate linked structured products the risk-free rate (T=RHP) should be derived from the swap curve of the relevant currency of the underlying.**

To find this rate, manufacturers should be allowed to use the risk-free swap curve from a reliable external source of market data (e.g. Bloomberg, Reuters, etc.).

<ESA\_QUESTION\_PKID\_9>

1. : 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>

**Once again, AMAFI agrees with the ESAs idea to use a risk premium** as it permits to improve the quality of the results shown to investors compared to the use of historical drift.

AMAFI also agrees with:

1. the methodology proposed by the ESAs to determine the risk premia for Bonds, Commodities and FX products (although we would also include Rates products, using the same methodology as FX); and
2. the choice to use a “0” risk premium for price return products (on Equity and Cash).

However, for Equity total return products, **AMAFI disapproves the ESAs choice to use the “dividend rate” taking into account the asset class but also country, sector and rating**.

For the same reason as developed in Q9, for many PRIIPs it would be impossible to determine only one sector and/or one country and/or one rating. Moreover, this proposal opens the door to interpretation as to what should the yield be for structured products linked to mutual fund underlyings. Lastly, this proposal seems over complicated and do not meet the general objective of simplifying the framework.

To avoid these issues, for **equity** instruments **AMAFI proposes to use a fixed risk premium determined by the ESAs.**

**For other products, AMAFI agrees with the ESAs proposal.** This solution has the advantage of being granular enough (thanks to the split per asset class and the remaining dependence of the specific asset’s return distribution to its volatility, skewness and kurtosis), implementable (by deleting the split per country, sector or rating) and harmonised.

As the rate is determined – and updated – by the ESAs, the data used by manufacturers will be the same, the results would thus be comparable for retail investors. **Indeed, this solution allows perfect comparability since all manufacturers will use the same data.**

As mentioned by the ESAs, we think the risk premium provided by the ESAs should also be **split between total return products (dividends received) and price return products (no dividend received)** and may be presented as below:

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | **PRICE RETURN PRODUCTS** | | | **TOTAL RETURN PRODUCTS** | | |
|  | **Reference rate** | **Risk premium** | **Expected return** | **Reference rate** | **Risk premium** | **Expected return** |
| **Equities** | Swap rate of the relevant currency and for the relevant designed maturity | **0%** | **Swap rate of the relevant currency** and for the relevant designated maturity | Swap curve of the relevant currency | **Fixed**  **Published and updated by ESAs** | Swap curve of the relevant currency + fixed rate |
| **Bonds** | Coupon rate less the reference rate | **Coupon rate** | Not applicable (no dividend received) | | |
| **Cash** | 0% | **Swap rate of the relevant currency** and for the relevant designated maturity |
| **Commodities** | Expected forward rate less the reference rate | **Expected forward rate** |
| **FX / Rate** | Expected forward rate less the reference rate | **Expected forward rate** |

<ESA\_QUESTION\_PKID\_10>

1. : 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>

As we are not in favour of using dividend rates to determine the risk premium (see our answer to Q10) and we prefer to have a fixed risk premia determined by the ESAs, this question will not be applicable if the ESAs retain our proposals.

That being said, the choice of historical *vs*. projected dividends should not have any substantial impact in scenarios, because the gap between the 2 levels is usually quite narrow. At present, we are aware of manufacturers using either historical or estimated future yield (from appropriate and reliable external sources), and this does not lead to comparability issues.

<ESA\_QUESTION\_PKID\_11>

1. : How should share buyback rates be estimated?

<ESA\_QUESTION\_PKID\_12>

Buybacks rates are difficult to compute (there is no common reliable and consistent data source as this concept is not used in structured products industry) and, thus, would not be harmonised between manufacturers.

Again, such proposal would over complicate the understanding of performance scenarios. With the AMAFI proposal to have a fixed risk premium for equity, there is no issue of buyback rates.

<ESA\_QUESTION\_PKID\_12>

1. : 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>

Not applicable to structured products.

<ESA\_QUESTION\_PKID\_13>

1. : 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>

**No**. For equities and other “spot assets” (FX spot, commodities spot), the 5-years period to estimate the volatility under the bootstrapping method is appropriate and has not led to problems in scenarios: it is well understood and allows comparability.

<ESA\_QUESTION\_PKID\_14>

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

<ESA\_QUESTION\_PKID\_15>

**We think compensatory mechanisms are not needed for structured products and derivatives** (Category 1 and 3 PRIIPs). Such mechanism would over complicate the understanding of performance scenarios. For structured products, we trust that 63 different structured payoffs tested by ESA using the new probabilistic methodology result in satisfactory outcomes, without any need for compensatory scenario mechanisms.

<ESA\_QUESTION\_PKID\_15>

1. : 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>

As mentioned above in Q15, we are not in favour of the addition of compensatory mechanisms as it is not easy to determine the situations in which they must be used so this will result in a lack of harmonisation.

Regarding the proposals of the ESAs: the two first[[6]](#footnote-7) are not implementable for structured products as there is no data available on past performance – the third[[7]](#footnote-8) remains too subjective (“*manufacturer expectations*” - “*unrealistic*”) and thus is not implementable in a consistent way by all manufacturers at the expense of the comparability for retail investors.

<ESA\_QUESTION\_PKID\_16>

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

<ESA\_QUESTION\_PKID\_17>

In AMAFI’s view, compensatory mechanisms are not required for structured securities and should not be added.

<ESA\_QUESTION\_PKID\_17>

1. : 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>

As mentioned by the ESAs, this methodology is simpler than the current one but – in our view – less adequate than our counterproposal developed in our answer to Q10 **as it is not granular enough** and does not take into consideration specificities of each product. This will result in communicating to the investor a general information which would not be useful to understand and select between the different products.

The good point of this simplified approach is that it does not take into account the country, the sector or the rating of the underlying (criteria which are highly challenging to be implemented). Again, for us and contrary to what is mentioned by the ESAs, it is not a drawback not to make distinction by country.

<ESA\_QUESTION\_PKID\_18>

1. : 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>

As mentioned above in Q18, we do not think this solution is appropriate as, for us, **expected returns should be computed by using a reference rate (the swap curve of the relevant currency) and a risk premium**.

Nevertheless, as proposed in this simplified solution, we are in favour of **using table with data determined by the ESAs but only to determine the risk premium** rather than to determine the whole expected return. To be consistent, as developed in Q10, this table should be split per asset classes and between price return products and total return products.

<ESA\_QUESTION\_PKID\_19>

1. : 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>

We consider that, subject to minor adjustments, the probabilistic methodology should not vary depending on the type of product. **The same assumptions on growth rates of probabilistic method should apply to Category 1 (e.g. OTCs), Category 2 (linear structured products) and Category 3 (non-linear structured products) PRIIPs.** The methodology should be designed in a consistent and unified way that is implementable for all these PRIIPs.

<ESA\_QUESTION\_PKID\_20>

1. : 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>

If we have to choose, we would choose the solution (c) (i.e. a fixed risk premia for equities) but we consider that this solution needs some minor improvements to reach what we think is the best solution as exposed in our answer to Q10. For instance, solution (c) of the volatility-based risk premia for equities could be made more granular by providing fixed figures through a table of risk premia as a function of historical volatility buckets (this alternative idea could be further examined).

**In any cases, AMAFI considers that the best solution is for the ESAs to provide fixed risk premium figures to allow perfect comparability since all manufacturers will use the same data.**

<ESA\_QUESTION\_PKID\_21>

1. : 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>

**No**. We believe the alternative approaches that you listed in the consultation paper are a fair summary of possible growth rate methodologies.

<ESA\_QUESTION\_PKID\_22>

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

<ESA\_QUESTION\_PKID\_23>

As mentioned in Q6, **we strongly disagree with the use of an “illustrative approach” both in replacement of and in combination with a “probabilistic approach”**.

The use of the illustrative approach will lead to the issues mentioned below:

* Comparability is fully lost within Category 3 as it’s not probabilistic based, everyone can have different rules which leaves the door open to deviations or “misuse” (e.g. two structured products using the same pay-out formula but with different underlying assets may show the same "illustrative scenarios", although they could have very different probabilistic outputs).
* Purely illustrative scenarios do not comply with Level 1 text that indicates: “*the format and content of the key information document to be drawn up by PRIIP manufacturers* […] *in order to enable retail investors to understand and compare the key features and risks of the PRIIP*” (*PRIIPs,   
  Article 1*).
* Illustrative scenarios are impossible to implement and automate because of the diversity of structured products return profiles across EU countries (e.g. single and multiple underlying, cross asset classes, etc.). To be relevant, the scenarios would need to be defined according to each product's features, which opens the door to inconsistencies across manufacturers.
* Illustrative scenarios would not allow to properly illustrate the possible output of a range of structured products. A number of parameters impacting the valuation of a structured product during the course of its life are ignored (interest rates, volatility, dividends, etc.).
* Finally, the use of illustrative scenarios in the KID is the most disruptive way to go further. It would require significant changes in manufacturer’ process in place since 2018, including notably training again distributors and advisors.

**Regarding the combination of the two approaches, two other issues may be added**:

* Displaying both illustrative and probabilistic scenarios would **create confusion** as it would **overload clients with information** in a document which is already quite long and somewhat difficult to understand.
* It is already **challenging to fit within the 3-pages** constraint for a significant range of structured products.

For all the issues mentioned above, we consider that the high difficulties to implement, the numerous disadvantages and the costs take over the potential benefits, contrary to what is exposed the cost/benefit table (page 121 of the CP).

<ESA\_QUESTION\_PKID\_23>

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

<ESA\_QUESTION\_PKID\_24>

For all the reasons mentioned in Q23, **AMAFI strongly rejects the proposal to use only illustrative scenario for structured products.** On the contrary, **AMAFI wants to keep only the probabilistic scenarios** for both Category 2 (linear structured securities) and Category 3 (non-linear structured securities).

<ESA\_QUESTION\_PKID\_24>

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

<ESA\_QUESTION\_PKID\_25>

As we do not support the use of illustrative (or the combination of probabilistic and illustrative) scenarios at all, we do not agree to apply this new requirement to current Category 3 products nor to an extended definition for products which would show illustrative scenario for all the reasons mentioned in Q23.

<ESA\_QUESTION\_PKID\_25>

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

<ESA\_QUESTION\_PKID\_26>

We agree with the ESAs that past performance is not applicable to structured products Category 3, since those do not have historical NAVs.

<ESA\_QUESTION\_PKID\_26>

1. : 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>

As exposed in Q26, this question is not applicable to structured products.

<ESA\_QUESTION\_PKID\_27>

1. : 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>

As exposed in Q26, this question is not applicable to structured products.

<ESA\_QUESTION\_PKID\_28>

1. : 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>

As exposed in Q26, this question is not applicable to structured products.

<ESA\_QUESTION\_PKID\_29>

1. : 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>

As exposed in Q26, this question is not applicable to structured products.

<ESA\_QUESTION\_PKID\_30>

1. : 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[[8]](#footnote-9)?

<ESA\_QUESTION\_PKID\_31>

As exposed in Q26, this question is not applicable to structured products.

<ESA\_QUESTION\_PKID\_31>

1. : 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>

As exposed in Q26, this question is not applicable to structured products.

<ESA\_QUESTION\_PKID\_32>

1. : 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, AMAFI agrees with the proposal to keep only one IHP** instead of the current RHP/2 as this would enhance the comparability. Indeed, with the current RTS, the IHP varies according to the product's RHP and comparing products with different IHPs does not make much sense for retail investors. Nevertheless, AMAFI is not totally opposed to the deletion of all IHP.

By determining this IHP, **the most important point for the AMAFI is to remain consistent between the IHP used in the costs section and the one used in the performance scenarios section**.

If the ESAs decide to keep one IHP, ideally, **we would keep the current 1-year IHP** for products with a RHP longer than 1 year.

<ESA\_QUESTION\_PKID\_33>

1. : 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>

As mentioned above in Q33, AMAFI’s preference is to simplify the table and keep only one IHP at 1 year (applicable for product with a RHP higher than 1 year).

Yet, if the ESAs wish to keep 2 IHPs, then we do agree to the use of a 5 years IHP for all products having a RHP of 8 years or more, provided that same rules of IHP and RHP are used for the scenario.

Once again, an important thing **for the KID to be understandable for investors, is to have a consistency between the IHPs of the costs table and the IHPs of the performance scenarios table.**

<ESA\_QUESTION\_PKID\_34>

1. : 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>

Our understanding of the ESAs proposals is:

* annual average cost figure at the RHP = Total costs accumulated over RHP, divided by RHP;
* both an annual average cost figure and a total (accumulated) costs figure = present to the investor the indicator mentioned just above and a total accumulated costs figure.

If our understanding is correct, **AMAFI is in favour of the first proposition (i.e. communicate only annual average costs)** as it is easier for them to understand and facilitate the comparison notably between products with different RHP. Indeed, the second proposition will lead to communicate an overflow of information, which would be difficult to understand for retail investors.

<ESA\_QUESTION\_PKID\_35>

1. : 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>

For AMAFI, **it is very important to have a consistency between PRIIPs and MiFID II information**, especially the ones concerning costs which are difficult for investors to understand. That is why we always have been in favour of **replacing the reduction in yield (RiY) by a total expense ratio (TER)** indicator to eliminate communication of too many confusing information to the retail investor.

By presenting in the KID costs expressed both as a TER and – as proposed by the ESAs in this question – as a percentage, this will lead to have in the KID data consistent with MiFID II requirement (which is not the case when costs are expressed as a RiY).

<ESA\_QUESTION\_PKID\_36>

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

<ESA\_QUESTION\_PKID\_37>

Not applicable to structured products.

<ESA\_QUESTION\_PKID\_37>

1. : 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>

Not applicable to structured products.

<ESA\_QUESTION\_PKID\_38>

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

<ESA\_QUESTION\_PKID\_39>

**No,** **AMAFI disagrees with the ESAs’ preferred Option 3** as this option has a lot of disadvantages. **Our preferred option is a combination of Options 1 and 2.**

The first table of Option 3 only displays RiY in percentage, which is not well understood by investors (both percentage and RiY – retail investors better understand costs expressed in EUR and as a TER) and are not consistent with MiFID II requirements. Indeed, the RiY is derived from cost in monetary terms, so displaying a RiY on its own is not easy to understand.

The **second table of Option 3 is too complex**. It also displays costs over time but in monetary terms and split by type of costs.

* Retail investors will not easily link the information provided by each table (percentages in Table 1 *vs*. monetary terms in Table 2).
* The “description of cost” for the entry costs mixes percentage and monetary terms, which is confusing.
* It introduces **a significant technical challenge for manufacturers**: for fixed term products, when KIDs are updated, the number of columns to be displayed will need to be adjusted according to the remaining time to maturity.

Moreover, **Option 3 causes an overflow of information** with providing retail investors 33 different numbers! (against 12 numbers in the current KID which are already difficult to explain).

Option 3 does not meet the objective of simplifying the KID and make it more understandable for investors.

<ESA\_QUESTION\_PKID\_39>

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

<ESA\_QUESTION\_PKID\_40>

**The combination of Table 1 of Options 1 and Table 2 of Option 2 is our favourite choice** for the following reasons:

* It presents the more convergence with MiFID II both in Table 1 of Option 1 (total costs in EUR) and in Table 2 of Option 2 (breakdown of costs in percentage).
* It has a more reasonable amount of data (up to 17 numbers) than the Option 3.

Nevertheless, **we would have preferred RiY replaced by TER in Table 1 to be consistent with MiFID II** **requirements** and not to give various incomprehensible data to retail investors. As such, results exposed in Table 1 (of Option 1) and in Table 2 (of Option 2) can be linked by retail investors.

If we must choose one single Option, we will choose **Option 1** as it is the one which presents the greatest number of benefits mentioned above (more convergence with MiFID II, link between Tables 1 and 2, lowest amount of data with 22 data points). Nevertheless, the percentage expressed in Table 2 are still RiY which are (1) not understandable for retail investors and (2) not aligned with MiFID II requirements. That is why we propose to combinate the Table 1 of the Option 1 (ideally by replacing the RiY by a TER) and the Table 2 of the Option 2.

Our third choice would be **Option 4** even if the fact that costs are not displayed in percentage and not explained in a second table raises questions whether it complies with PRIIPs Level 1 text. This presentation saves space, assisting not to exceed 3 pages. But it has drawbacks:

* Showing an entry cost in euros in several columns (IHP and RHP) in Option 4 **looks like the entry cost can be paid several times**. It also opens the door to different interpretations as to how this should be filled, (e.g. for a one-off 4% entry cost:
  + 400 EUR at 1 year, 400 EUR at 5 years and 400 EUR at RHP; or
  + 400 EUR at 1 year, 0 EUR at 5 years and 0 EUR at RHP.
* **Option 4 has too much information with up to 27 numbers displayed** (versus 17 for the combination of Table 1 of Option 1 and Table 2 of Option 2 and 12 for the current presentation).

**We believe both Options 2 and 3 are totally incomprehensible for retail investors and cause an overflow of information with respectively up to 32 and 33 numbers displayed:**

* In Option 2 there are too many numbers in Table 2 which will be impossible to explain to and to understand by retail investors.
* In Option 3 there is no cost expressed in euro which is the most easily understandable information for retail investors and, as for Option 2, there are too many numbers in Table 2.

Moreover, as mentioned by the ESAs, one of the issues encountered by investors (and distributors) is the “*overload of information*”. As shown in the table below, the options proposed by the ESAs increase significantly the number of data points communicated to retail investor and therefore do not solve this problem, on the contrary.

|  |  |
| --- | --- |
| **Costs table option** | **Number of data points displayed**  (i.e. count of cells with numbers in % or EUR) |
| *Current regime* | *12* |
| Option 1 | 22 |
| Option 2 | 32 |
| **Option 3** | **33** |
| Option 4 | 27 |
| **Table 1 of Option 1 & Table 2 of Option 2** | **17** |

<ESA\_QUESTION\_PKID\_40>

1. : 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>

Despite all the disadvantages of the use of the RiY (compared to the use of a TER) if the ESAs decided to keep the RiY, we agree that the presentation proposed in the consultation paper is easier to understand for retail investors than the current presentation.

<ESA\_QUESTION\_PKID\_41>

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

<ESA\_QUESTION\_PKID\_42>

As mentioned above, **there must be consistency on the IHP used between performance scenarios and costs tables**.

Regarding the titles of columns:

* The header of the column in the Table 2 should allow 2 possible wordings:
  + “if you exit at the [recommended holding period]” (for products with a RHP before their maturity – example: warrants with 1 day RHP); or
  + “if you exit at maturity” (for products where RHP is the maturity date). This would avoid decimals issues as RHP is not always an exact number of years, and it varies according to the remaining time to maturity when the KIDs are updated.
* For the third column of Table 2 (of Option 1):
  + it would be more consistent to name it “*Costs if you exit* ***at*** *1 year*” (rather than “after   
    1 year” which is not clear and could be 1 year but also a latter point in time);
  + as mentioned in Q5, it would be important not to forget specificities of product **with RHP shorter than one year**, for those the column should be named: “*Cost if you exit at the recommended holding period*” and the costs mentioned would not be annualised.

<ESA\_QUESTION\_PKID\_42>

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

<ESA\_QUESTION\_PKID\_43>

Not applicable to structured products.

<ESA\_QUESTION\_PKID\_43>

1. : 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>

Not applicable to structured products.

<ESA\_QUESTION\_PKID\_44>

1. : 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>

Not applicable to structured products.

<ESA\_QUESTION\_PKID\_45>

1. : 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>

**No, AMAFI totally disagrees, funds requirements should not be extended to other PRIIPs.**

For structured securities, we do not think the UCITS Regulation 583/2010 Article 4 paragraphs 6 & 12 should be applied, because these are fund specific elements, which are not relevant to structured securities (e.g. relating to name of the management company, share classes, etc.).

<ESA\_QUESTION\_PKID\_46>

1. : 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>

No, as mentioned in Q46, we are not in favour of extending funds requirement to other PRIIPs.

<ESA\_QUESTION\_PKID\_47>

1. : 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>

No, as mentioned in Q46, we are not in favour of extending funds requirement to other PRIIPs.

<ESA\_QUESTION\_PKID\_48>

1. : 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>

Generally, AMAFI is opposed to the inclusion of fund-specific concepts for other PRIIPs like structured products Category 3 or structured linear products Category 2 (e.g. management companies, investment policy, share classes, fund languages… of UCITS directive) because structured products have already implemented the current PRIIPs Regulation correctly, and are subject to Prospectus Regulation, not UCITS rules.

<ESA\_QUESTION\_PKID\_49>

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

<ESA\_QUESTION\_PKID\_50>

Not applicable to structured products.

<ESA\_QUESTION\_PKID\_50>

1. : 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>

Not applicable to structured products.

<ESA\_QUESTION\_PKID\_51>

1. : 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>

Not applicable to structured products.

<ESA\_QUESTION\_PKID\_52>

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

<ESA\_QUESTION\_PKID\_53>

Not applicable to structured products.

<ESA\_QUESTION\_PKID\_53>

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

<ESA\_QUESTION\_PKID\_54>

Not applicable to structured products.

<ESA\_QUESTION\_PKID\_54>

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

<ESA\_QUESTION\_PKID\_55>

Yes AMAFI has some comments on the assessment of costs and benefits made by the ESAs as some costs and drawbacks have not been fully assessed.

The primary problems and blocking points of the proposal are below:

* **Annex VIII: illustrative scenario (12.2) or illustrative and probabilistic (12.3) for all Category 3**, while only Category 2 gets the probabilistic treatment is an unacceptable non-level playing field, and raise question of compliance with Level 1 text. The costs and the mere impossibility to implement this for structured securities have not been accurately presented, and they far outweigh any benefit. As explained above, some of the drawbacks have been omitted too (such as the fact that such illustrative scenarios would not allow to properly show the possible negative output or early exit risks, that they are open to mis-use, and that there is no consistent way to implement them for the same product across different manufacturers).
* **Growth rates based on country specific risk-free rate**: the cost and complexity of implementation is omitted: It is impossible to implement consistently between manufacturers of the same product (e.g. which risk-free rate to use for multi country equity indices, underlying stocks with dual country listing GB/NL, or EU/US, CLNs with equity upside, … ).
* **The dynamic text in the performance scenarios table in case of maximum return displayed is impossible to implement in a consistent and unified way** for structured products since there is a variety of payoffs and features. In addition, when early redemption is possible (e.g. callable and autocallable products), it is unclear what is the maximum return (i.e. IRR/annualised return, or absolute return).

Second order problems are, in our view:

* Removal of stress scenario is a problem for low barriers products where the 10% worse case shows 100% principal returned, while actually the product is principal at risk and would have a very low stress scenario.

The ESAs’ proposal to display the minimum scenario (i.e. 0 euro) in this case is a possible alternative, but it loses comparability and hides the differences between various barrier levels, and also disregards the impact of the volatility of the underlying, which is the second most important risk factor (after spot move) of a structured equity product.

* The equity risk premium set to 0 (price return) or to the dividend yield (total return): this is not ideal; we prefer an alternative of a fixed equity risk premium as mentioned in our answer to Q10. Yet, the assumption of 0 risk premia on price return products can be easily implemented.

<ESA\_QUESTION\_PKID\_55>

1. : 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>

The changes proposed by the ESAs will cost several million euros for each of the stakeholders (manufacturers, distributors, investment advisers, …) which amounts to tens or even hundreds of millions for the whole chain. Also, it is important to limit the changes to the ones necessary meaning and that clearly improve the accuracy and the understanding of information contained in the KID.

For structured products, illustrative scenarios would not even be possible to implement consistently due to the diversity of payoffs across the various EU markets. In addition to the unfeasibility, the costs would be humongous both in terms of implementation costs (probably multiple millions of euros per manufacturer, related to IT systems updates, data vendors costs, internal staff costs, training of distributors and IFA, and legal fees, and so on…), and also in terms of the many drawbacks of such approach.

<ESA\_QUESTION\_PKID\_56>

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

<ESA\_QUESTION\_PKID\_57>

Yes. **A gradual implementation of the revised DR will even multiply the costs of adaptation at each step** due to multiple releases required in IT systems, and the complexity of re-training distributors at each step/release.

**We support a single application date on or after 1st January 2022 for all PRIIPs, which is less costly, and clearer for investors.**

<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. This issue may be addressed if the “Option 1” of costs presentation is retained by the ESAs (but not if it is the “Option 3”). [↑](#footnote-ref-5)
5. Indeed, it should not be assumed that the investor reinvests the auto-call payment for the remainder of the term of the product. [↑](#footnote-ref-6)
6. “*Lowering the favourable scenario to match the maximum return observed in the past*” and “*raising the unfavourable scenario to match the minimum return observed in the past*”. [↑](#footnote-ref-7)
7. “*Lowering the unfavourable scenario to match the manufacturer’s expectation of an unfavourable outcome, if the unfavourable scenario is considered to be unrealistic*”. [↑](#footnote-ref-8)
8. 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-9)