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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 | Schroders Investment Management |
| Activity | Investment Services |
| Are you representing an association? |  |
| Country/Region | UK |

# Introduction

Please make your introductory comments below, if any:

<ESA\_COMMENT\_PKID\_1>

Schroders fully supports the objectives of the PRIIP KID and the broader regulatory emphasis on giving investors all the information they need to make investment decisions. We further support the aim to apply standards of disclosure, that have applied for some years to UCITS, to all investment-based products (including those within an insurance or banking wrapper). The first edition of the recurrent cost and performance reports by [ESMA](https://www.esma.europa.eu/sites/default/files/library/esma50-165-731-asr-performance_and_costs_of_retail_investments_products_in_the_eu.pdf), [EIOPA](https://eiopa.europa.eu/Publications/Reports/Costs%20and%20past%20performance_2018.pdf) and [EBA](https://eba.europa.eu/documents/10180/2551996/EBA+Report+on+structured+deposits.pdf), as [mandated](https://www.esma.europa.eu/sites/default/files/library/ares20175008790_request_to_esas_to_issue_recurrent_reports_-_cmu_action.pdf) by the European Commission in the context of the CMU agenda, clearly indicated that the analysis required by the Commission could only be delivered by ESMA given the cost and return data available through the UCITS framework.

A level-playing field of transparency is needed. However, in the effort to create a common set of metrics that apply across the very diverse universe of products that fall within the PRIIP scope, we have lost sight of the question whether this is achievable in a meaningful way. The balance between providing information that is comparable and information that is meaningful has been definitely skewed in favour of the former, thus ending up in a place where everyone provides information that is theoretically comparable but is, in practice, unusable to retail investors, i.e. the target audience of the PRIIP KID.

Although PRIIPs has been envisaged as the way to close the costs and performance data gap between UCITS and other retail investment products, the evidence so far would indicate that this is unlikely to be achieved. It would also indicate that the data already available from UCITS disclosures, is going to be discontinued and replaced by data points that cannot be used in the same way. This means that we are moving further away from transparency that is meaningful for both clients and regulators.

The reason for this lies in the existing rules that:

* Preclude past performance information
* Present performance scenarios that are based on historical information
* Require presentation of costs as a reduction in return instead of actual cost
* Prescribe transaction cost estimation methods that include market movement

We fully appreciate and recognise the continued efforts by the ESAs to address all these points and to maintain an open dialogue with industry and consumer representatives. We further note that there has been considerable progress in the solutions that are being considered, particularly in the current proposals to include past performance, to think of consistency with MiFID II for cost presentation, and to move away from the slippage methodology for estimating transaction costs, at least for some asset classes.

Nonetheless, as we outline in detail for each question below, the proposals do not go far enough in properly addressing the known problems with the PRIIP KID regulation. There are two reasons for this. First, the focus remains on amending the technical standards in increasingly complicated ways that attempt to reverse-engineer an outcome that could be deemed reasonable instead of considering simple and straightforward ways in which to convey key information to retail investors. Second, there is a clear mandate by the Commission to fix this by amending the technical standards rather than revisiting the constraints placed by Level 1 regulation (which directly leads to the first point).

The ESAs note in the consultation paper that *“it is not expected that all of the different elements of the review required by Article 33 of the PRIIPs will be completed by the end of this year”*. According to anecdotal information, this Level 1 review will not take place until 2024. We would urge the ESAs to recommend that the Commission reconsiders this. If the known issues with the PRIIP KID cannot be addressed with changes in the technical standards (and the ESAs acknowledge on page 8 of the consultation paper that *“some of the concerns expressed by stakeholders relating to performance scenarios, costs and MOPs might not be entirely resolvable through a change in the PRIIP Delegated Regulation”*), then the result will be presenting retail investors with ever changing versions of the KID:

* first, the existing version that is already in circulation which we know is problematic;
* then an amended version based on the proposals in this consultation paper that is likely to be problematic for different reasons
* and then (hopefully) a version that provides simple, meaningful information to retail investors following a proper review of the Level 1 regulation.

Having different disclosures every couple of years is unlikely to enhance consumer confidence and trust in the information presented to them and inspire them to invest (a key pillar of the CMU agenda).

There is an additional risk in the current focus on technical standards that centres around theoretical assumptions and includes detailed and very complicated calculations. Namely, it forgets to ask whether investors engage with this information or even know that it is important that they read it in the first place (which the evidence so far would suggest is not the case). In this context, we find it surprising that voices by prominent consumer groups, such as Better Finance, do not seem to be fully reflected in the proposals.

There are ways to address the issues with the PRIIP KID:

* Allow different types of performance disclosure for different types of PRIIPs (including presenting past performance information on its own and future performance scenarios on their own where it is appropriate to do so). Essentially, this would mean interpreting the Level 1 requirement of “appropriate performance scenarios” in a consumer-friendly way.
* Express cost in a way that is consistent with MiFID II, that is, as a cost and not as lost return.
* Amend the methodology for estimating implicit transaction costs to remove the noise from market movement, ensuring again a Level 2 interpretation that is harmonised with MiFID II.

None of these are explicitly proposed in the consultation paper for various reasons, not least, we are told, due to constraints with Level 1 regulation.

If the desire is to extend the transparency standards enjoyed by UCITS investors to other products, regulators need to consider what made the UCITS disclosure effective. We need to be clear as to what we are seeking to achieve and what investors are going to do with the information when they get it. We need to ensure that consumers receive simple, accessible and meaningful information. We need to recognise that different investors will have different needs, for example, some will want very simple information while others may want more detail, and that this will vary depending on what product type investors are looking to buy.

In this respect, we would like to refer to a statement by the ESAs in the [Final Report](https://eiopa.europa.eu/Publications/Reports/2019-02-08%20Final_Report_PRIIPs_KID_targeted_amendments%20%28JC%202019%206.2%29.pdf) following the

2018 joint consultation: *“... it is intended to analyse if it is appropriate to introduce some additional differentiation in how the rules apply to different types of products, while still adhering to the overarching aim of comparability between substitutable products”*. A decisive point in this consideration is what constitutes “substitutable products”.

We should bear in mind that if investors start thinking of a range of different products as substitutable, they would need help to recognise and understand the differences between products. Exact and complete comparability across a diverse set of products may, indeed, mask these important differences.

Schroders is very committed to finding a solution and we are suggesting possible ways forward. We have done so in this response and, additionally, we have provided data to the Investment Association (IA) for its modelling of the new proposals, particularly for performance disclosure. We will not duplicate the content of the IA response, but wish to point to the findings of their research that explain why the current proposals are not going to provide a long-term solution to the known issues with the PRIIP KID disclosure. Moreover, we have provided input to the response of the European Fund and Asset Management Association (EFAMA) and support the views expressed therein.

<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>

We would like to note that Schroders interprets “digital solution” as an online interface that allows interaction with the information shown and not just sending electronically a soft copy of the KID, such as a pdf file.

In this context, the sections that we consider to be relevant to the digital solution question, are in the PRIIPs Regulation. First, Article 6(4) makes references to *“document”* and a *“paper”*. Second, Article 14, refers to *“paper”* and *“durable medium”*; the latter even where the KID is provided via a website. So the Regulation uses the word “document” and not “tool”. This would imply that a digital version of the KID that remains static while the consumer is invested in a PRIIP, is possible, but the rules would not accommodate a digital solution that presents information in a more interactive way and is kept up-to-date while a consumer is invested in a PRIIP. To allow this, the Regulation would need to be amended.

<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>

During preparatory discussions for the Deloitte [study](https://etendering.ted.europa.eu/cft/cft-documents.html?cftId=3823) on online comparison tools (which is done in the context of the broader CMU agenda), some distributors reported that consumers spend an average of two seconds on the KIID/KID (UCITS/PRIIPs). This means that consumers either do not know they should read the information, aren’t interested in the information, prefer the information in a more user-friendly way (such as that provided by a MiFID-compliant non-advisory platform via a smartphone), or the engagement is so minimal that it is practically the same as if not reading the disclosures at all.

The increasing use of online interfaces instead of paper when investing is a further barrier to consumers reading the KID. This is a topic on which Schroders has carried out and published [research](https://www.schroders.com/en/sysglobalassets/digital/insights/pdfs/thought-leadership/the_future_of_client_communication.pdf). Recent results from the [Schroders Global Investor Study](https://www.schroders.com/en/sysglobalassets/digital/insights/2017/pdf/global-investor-study-2017/theme2/schroders_report-2__eng_master.pdf) (22,000 consumers from 30 countries) show that two thirds of investors use technology for choosing and managing their investments. The use of smartphones and tablets poses an additional complication. Namely, a 3-page pdf of a PRIIP KID is either illegible on a smartphone due to small font size or requires significant enlargement and scrolling in both directions in order to be read (making it even more unlikely that it will be read). This creates a question to what extent delivering a KID via a smartphone or tablet is compatible with PRIIPs Regulation, Article 6(4a), which requires a document that is *“presented and laid out in a way that is easy to read, using characters of readable size”*. It is also worth noting that the way things are read online is quite different from the way they are read on paper where information is generally presented in a layered way rather than requiring scrolling, or where the information starts from the top left and finishes at the bottom right of a long document.

EBA’s recent [opinion](https://eba.europa.eu/eba-publishes-opinion-disclosure-consumers-buying-financial-services-through-digital-channels) on possible amendments to the Distance Marketing Directive requests that *“information should be presented in plain and intelligible language and in a readable font size, which should easily adapt to work on any kind of device”*. Moreover, IOSCO [stressed](https://www.iosco.org/library/pubdocs/pdf/IOSCOPD626.pdf) that regulators need to account for the fact that more people now make their investments in an online environment and that this differs from the, so far, more traditional means of disclosure.

That is why we very strongly agree that providing the content of the KID via an IT tool that is more interactive would be helpful for consumers in multiple ways. First, it would increase the chances that they engage with the information in the first place rather than dismiss it as ‘small print’. Second, it could serve as a means to keep consumers up-to-date and engage them throughout the holding period. Third, it could facilitate the development of online comparison tools that are based on regulated disclosures.

Having said that, the development of online interfaces is not going to help where the content is misleading or unusable. Hence, amending the Regulation to allow the use of IT tools is not going to help address the known issues with the actual content of the PRIIP KID that are discussed in this consultation paper. On the contrary, if we anticipate that consumers will engage more with the information if it is in a digital form, then it is even more imperative to fix the content now.

<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>

We recognise that there are currently misleading KIDs in circulation for PRIIPs other than UCITS. This is the result of disclosure requirements that had not been thoroughly thought through. Which is why it is imperative that the same mistake does not happen twice. This is particularly important as the ESAs note in several places in the consultation paper that the proposals presented (even if some of them are flagged as the *“preferred options”*) have not been thoroughly tested, and issues may arise again. Regulators could make good use of any additional time to test and review what the new disclosures would look like and how consumers may react to them rather than implement changes to existing PRIIPs, realise there are still issues and then carry out a further wave of changes.

Taking a piecemeal approach to implementing changes in the PRIIP KID is not going to be helpful for consumers as it may confuse them and reduce confidence in the reliability and usability of the KID as a source of important information.

<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>

As in our response to Question 3, we do not consider that a gradual approach is going to be particularly helpful to consumers. Implementing all changes at once at the beginning of 2022 with sufficient time to adapt to the new changes is going to be more conducive for consistency.

<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>

We consider that there are material issues and that resolving these would require a change in the PRIIPs Regulation and not just the PRIIPs Delegated Regulation. For example, the 3-page limit in Article 6(4) is going to be a considerable challenge if:

* at least some types of PRIIPs will be required to present past performance and future scenarios
* all PRIIPs have to add new information in light of the new sustainability disclosure regulation.

Another example is the interpretation of *“appropriate performance scenarios”* in Article 8(3)(d)(iii) which currently is interpreted to strictly mean “future” scenarios, but this need not be the case.

Given that the consultation paper is limited to changes in the Delegated Regulation, it is the limited scope itself that needs to be addressed.

<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>

Schroders agrees with the remarks made by the ESAs in their two letters to the European Commission (the [first one](https://eiopa.europa.eu/Publications/Standards/JC%202019%20046_PRIIPs_Letter%20on%20consumer%20testing_COM.pdf) dated 23 May 2019 and the [second one](https://eiopa.europa.eu/Publications/JC-19-55%20PRIIPs_response_ESAs_COM_consumer_testing.pdf) dated 30 July 2019) on the content of this consumer research, and particularly with the comments to *“keep more options open to test consumer understanding of various presentations and where consumer preferences really lie”* and that *“the limitation of the scope of the exercise [is viewed] as a significant missed opportunity… which can weaken our ability to take informed policy decisions to ensure that investors receive meaningful information”*.

We view this as a missed opportunity indeed for two reasons. First, some of the proposals in the consultation paper are not going to be tested. For example, how well do consumers understand the new probabilistic scenarios and how do they react once they see a range of outcomes that doesn’t vary year-on-year whereas their real outcome does? Second, several options that we consider to be meaningful, such as presenting costs in a MiFID II consistent way or having different types of performance disclosure for different types of PRIIPs, will not be part of the consumer testing at all. This is frustrating, not least because:

1. Considerable changes are being proposed on cost presentation but the consumer testing looks only at performance presentation.
2. Aspects of performance disclosure that are being tested, have already been subject to the [initial consumer research](https://ec.europa.eu/info/sites/info/files/consumer-testing-study-2015_en.pdf), including the option to show one instead of three holding periods and the option to attach estimated probabilities.

It is not clear why points for which consumer research has already been carried out are included again, while other issues that are much more important, such as cost disclosure, are not.

The fact that the consumer research is going to be completed only after this consultation will be closed, makes it impossible to comment on the results or even use any insights that may be gained from this exercise in responding. The consumer testing results may even render some of the proposals in the consultation paper entirely redundant.

Beyond this, considering the options outlined on page 12 of the consultation paper, we think that inclusion of past performance should be part of the research and that the research should explore a number of points:

* Are consumers confused by the combination of the two, i.e. past and future performance?
* How do consumers understand and react when the see (a) only past performance, (b) the combination, (c) only scenarios?
* Do consumers use performance for comparison across different types of PRIIPs and would different types of performance disclosure for different types of PRIIPs (but same within the same type) affect their decision making?

Still, in light of the fact that the consumer research is run by the European Commission and has already started, it is not clear why the ESAs have chosen to invite comments about the research content in this consultation paper.

<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>

In regards to the first part of this question, assuming that “intermediate scenarios” means those calculated for RHP/2 (and not the moderate scenarios across different holding periods), we are of the view that they can be excluded given that the initial PRIIP KID consumer testing had indicated that there is not significant difference if consumers are presented with the scenarios for the RHP only or more periods. We consider that showing the 1 year scenarios alongside the RHP ones, would be helpful to indicate the consequences of an early exit (in particular the impact of initial charges). We see little value in doing so for only one type of PRIIPs. Such a change should apply across the board.

If the ESAs define “intermediate” as the moderate scenario, then we disagree with the proposal to remove this. It is the only scenario that would relate to normal circumstances rather than the extremes. We are aware of the danger that consumers place too much importance on it, but this is the broader issue with showing future performance in the first place. That is why, no matter what is meant by “intermediate”, whether it is part of the scenario table or not is a secondary issue as it still does not address the more pressing question of whether showing future performance scenarios for some types of PRIIPs is meaningful.

In regards to the second part of the question, it is not clear what is being asked. The question itself refers to the performance assumption that should be used for the costs section. But the cost section uses the moderate scenario and not the RHP/2 scenarios (which is what we interpret to be “intermediate” given the ESAs’ statement on page 18 that intermediate scenarios *“can be seen as relevant to indicate the implication so fending the investment before the end of the recommended holding period”*). In any case, the need to have a return assumption (which will be true only by accident), is an indicative shortcoming of showing costs as an RIY indicator and not as a percentage of assets.

<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>

The purpose of the stress scenario is to give an indication of outcomes in periods of extreme volatility. This is anyway dependent on historical observations that can always become irrelevant if higher volatility is experienced. Since the unfavourable scenario is already providing a picture of the lower end of outcomes, we believe that if any future scenarios are to be shown, the stress scenario could be omitted – not least, in order to avoid overload of information that is not usable in the first place.

If there are concerns that consumers are not sufficiently warned that the unfavourable scenario is not the worst possible outcome, then an appropriate disclaimer can be added. Still, this remains a secondary point, given the potential shortfalls of showing future performance in any shape or form for non-structured PRIIPs.

<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>

This would depend on how granular the definition of the reference rate would be. Presumably, it would need to be on an asset-weighted basis to reflect the geographical and asset class exposure of the fund. Or alternatively, it would need to reflect the investor experience and what would be the reference rate for them, e.g. German reference rate for residents in Germany etc. This is what seems to be the case, given point 13 on page 60 of the consultation paper. Would this imply distinct versions of the KID depending on the residence of each end-client (clearly an undesirable outcome if we are to encourage cross-border activity)? It is not yet clear that, with the exception of US reference rates, there is sufficient data availability to accommodate this, and so perhaps one common reference rate across the EU would be simpler to implement.

Overall, we question how meaningful it is to add such a degree of complexity to effectively make an educated guess on a range of outcomes which could anyway be wrong.

<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>

It is not clear what would be the advantage of adding such a degree of granularity whereby manufacturers need to look into individual holdings in order to split into asset class, country and sector (a common set of definitions across Europe would be needed for this). Schroders has provided data to the Investment Association (IA) for its modelling and the results would indicate that using the yield data on an aggregate fund level produces a very similar result as taking the detailed asset class breakdown. Hence, we question whether such a degree of look-through is needed to deliver the ESAs’ preferred probabilistic approach.

More importantly, based on the results of the analysis carried out by the IA, we see much bigger issues with the new probabilistic approach that must be considered:

* At a very high level, it still provides estimations of what may or may not happen in the future. Irrespectively if future scenarios are accompanied by past performance or not, they can be interpreted as what an investor should expect to get from a fund. The reality will always be different. It is also questionable to what extent it actually works in the context of the path dependency of structured products.
* As acknowledged by the ESAs on page 26 of the consultation paper, the new probabilistic approach is complicated and explaining it to a retail investor is going to be particularly and unnecessarily challenging and risks spurious accuracy.
* Since all scenarios evolve around the expected return of the asset class, the scenarios within each asset class will come closer together making it difficult for consumers to distinguish between products. Cost becomes then the only distinctive characteristic for the calculation of net returns, meaning that the average active fund will always have scenarios that look slightly worse than those of the average passive fund (within the same asset class) even if the net returns are higher (as proven by the IA analysis).
* It requires data from external sources that operate on a commercial basis. Having this as a regulatory requirement, creates an inelastic demand for the services of these companies. There have been some remarks that manufacturers already subscribe to these services, but we would like to stress that this relates to licences that have been purchased for specific uses and purposes. The estimation of PRIIPs scenarios would most likely be seen as an opportunity for a different type of licence, the price of which will be subject to inelastic demand.
* The IA analysis (but also the evidence in pages 22-24 of the consultation paper) shows that for equities the new probabilistic scenarios vary very little year on year while the actual outcome is quite volatile, whereas for money market funds the opposite happens. This does not help investors understand the nature of risk and may create a gap in investors’ expectations between the outcomes they are shown and the outcomes they actually experience. This is specifically in terms of volatility and perceived risk, with unforeseen consequences for their appetite to invest or remain invested.

It remains unclear that this methodology actually works. The consultation paper already makes a special case for money market funds. We have not been able to test this, but we would expect challenges in the implementation for funds that use derivatives (for example, for absolute return funds). As mentioned, we have been working with the IA to test as much of this as possible. We also appreciate the efforts by the ESAs for what is no mean task. But we see little scope for producing a consultation document identifying a preferred method without having adequately tested it first.

<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>

This question is a good example of the complexities that the new probabilistic approach creates. First, this is relevant only for equities. Then, if dividend rates are averaged, over what time period should it happen? Should this be connected to the recommended holding period? Does the approach ignore earnings growth in stocks?

Such examples of minor points that can be tweaked in the calculations beg the question whether there should be any concerns about the consistency of approach and comparability of end-results. If that were the case, a possible solution would be that the technical standards provide specific answers. Which, in turn, opens the discussion how to determine the right answer, whether there is one in the first place, etc. creating the risk that the approach becomes so prescriptive that some of the resulting figures are not meaningful. Unfortunately, we have not been able to examine this in the time provided to respond to this consultation, but it may be helpful to test from what point discretion with such technicalities could impact the end-result.

<ESA\_QUESTION\_PKID\_11>

1. : How should share buyback rates be estimated?

<ESA\_QUESTION\_PKID\_12>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

The fact that compensatory mechanisms are brought forward is interesting in itself. First, it signals that the ESAs expect that the probabilistic approach is not going to work in all cases (rightly so). Second, it gives the impression that where the probabilistic approach won’t work, i.e. produces figures that no one would consider reasonable, manufacturers can then use tweaks to reverse engineer an outcome that could be deemed more reasonable. This is not acceptable.

As long as the approach is trying to predict the future, there will always be methodological faults, the scenarios will not capture extreme circumstances, and won’t work always for all products. That is the consequence of focussing on future performance scenarios and not appropriate performance scenarios as in the PRIIP Regulation, Article 8(3)(d)(iii).

<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>

There is certainly merit in considering alternatives to the preferred probabilistic approach considering how complex it is, how it makes manufacturers dependent on commercial data vendors by creating an inelastic demand for their services, with still no guarantee that the ensuing figures will be meaningful.

The idea of using past observations to give a range of outcomes that consumers have experienced in the past, as in, the best, average and worst historical returns for an RHP over e.g. the last 10 years (with the strict understanding that this is the past and no guarantee for future returns), could be a simple and meaningful alternative to providing a range of outcomes instead of scenarios for linear PRIIPs. This range of outcomes would then mirror the path dependent range of outcomes for non-linear PRIIPs. We have provided examples of such disclosure in a recent [research paper](https://www.schroders.com/en/sysglobalassets/digital/insights/pdfs/thought-leadership/2019_september_fixing_the_priip_key_information_document.pdf) (see page 6, table 2).

Using the best and worst historical returns to amend rather than replace the scenarios may be even more confusing for retail investors as it combines returns that are real and have been experienced by investors with returns that are theoretical and have not and will not be experienced by anyone. This adds a degree of complexity, in that, notwithstanding the challenges of explaining the new probabilistic approach to retail investors, they would then be presented with historical data depending on circumstances and on each manufacturer’s view of what could be considered to be realistic. A significant simplification would be to replace the probabilistic scenarios with the best, average and worst returns observed in the past with the usual caveat that this is no guarantee for future outcomes.

<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>

This question is hard to answer if the methodological faults are unforeseen. But this is indicative of the limitations of the approach itself that:

* cannot apply where there is limited data (there is less historical data for European markets compared to the US),
* needs to be amended for some asset classes (as is already the case for money market funds)
* can still produce figures that do not reflect what an asset class has historically delivered.

We would like to caution against an approach that requires compensatory mechanisms not only because of the additional complexity and the difficulty in explaining the figures to retail investors, but also for the window it opens for different or slightly tweaked methodologies that make the figures less comparable even within the same PRIIP category.

<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>

An approach based on rates provided by a regulator or other non-commercial external body would have the advantage of simplicity of both implementation by firms and explanation to consumers. This is subject to three conditions:

* First, we consider that a range of rates and not just maximum growth rates would be preferable so as to also illustrate the “average” and “worst” cases. We would like to reiterate that the issue with the current methodology is not only the unrealistically favourable growth rates that we see now (as stated on page 27 of the consultation paper) but also the potential for unrealistically unfavourable growth rates immediately after a market downturn.
* Second, a sufficient degree of asset class granularity is granted that looks through to the major asset classes but is not too granular.
* Third, we agree that this would require a clear methodology for the calculation of the rates and that a long historical record would be more appropriate. This methodology could be subject to the same conditions for review as the scenarios by manufacturers currently are, i.e. at least on an annual basis or if one of the underlying parameters changes significantly (as per Article 15 of the PRIIP Delegated Regulation). However, this would depend on the length of the historical period that will be chosen as an average over 40 years (mentioned on page 27 of the consultation paper).

Although this approach would be preferable to the probabilistic one, some issues remain. Namely, funds within the same asset classes would have scenarios that are more similar to each other than actual returns are. Importantly, as scenarios are required to be presented net of costs, the average active fund will always appear slightly worse than the average passive fund.

<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>

See our response to question 18. If such an approach is taken, the table would need to be complemented by historical average and minimum (“worst”) growth rates) for completeness and to present consumers with the full range of historical outcomes.

<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 recognise that the reason for the development of the probabilistic methodology was to have one common performance measure that would apply across the very diverse universe of PRIIPs.

The issue that we see with the probabilistic methodology for non-structured products (that apply to Schroders) is that it tries to predict the future. This will always pose problems as so well illustrated by the current state of the debate. The existing probabilistic method relies only on internal data, is simple to implement and explain but is based on past performance and results in procyclical scenarios. The new probabilistic method corrects the procyclicality but relies on many different types of external data (the availability for which is in some cases far from guaranteed), is complicated to implement and explain, and requires compensatory mechanisms.

A reasonable version of probabilistic scenarios may be more appropriate for other types of PRIIPs that are sold on the basis of a specific outcome in the future, such as some insurance products or structured products. But the views of manufacturers of those products will be more relevant on this point.

<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>

We note that two of the three options presented on page 28 of the consultation paper refer to equities, hence we can only assume that the ESAs have considered their application to other asset classes as well.

The use of the Capital Asset Pricing Model (CAPM) would be subject to challenge of how to determine the “market portfolio”. Would this be one common portfolio that contains all asset classes across all sectors and regions? Would it be more granular and asset class specific? Would the CAPM produce reliable results if the latter? In this context, it may be useful to remember Roll’s critique of the model, and specifically the impossibility of testing its validity given the impossibility of defining the market portfolio.

Very few details are provided in the consultation paper on how exactly the Sharpe ratio approach would work. If it would require the use of historical data to calculate the ratio on a fund level, i.e. the excess return of the fund over the volatility of fund returns, then it is very likely it too will result in procyclical figures. If it would require long-term historical data on an asset class level, then it is very similar to the proposal for the maximum growth rates, and the issue becomes that active funds again will look on average worse than passive funds even if they deliver higher net returns (on this point we would like to refer again to the evidence provided in the response by the IA).

<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>

For this question we would like to refer you to our recent [research paper](https://www.schroders.com/en/sysglobalassets/digital/insights/pdfs/thought-leadership/2019_september_fixing_the_priip_key_information_document.pdf).

We maintain the view that the biggest challenge with performance disclosure for PRIIPs is that the approach (at least so far) has been to find one common metric across a very diverse set of products. Non-structured UCITS, open-end and closed-end funds, will never be able to deliver what is shown in a future scenario table. The disclaimer that *“past performance is not an indicator of future outcomes”* is very relevant not only to indicate the limitations of past performance but also the unpredictability of future outcomes. At the same time, some insurance products and structured UCITS, can only simulate past performance. That is why in the context of UCITS disclosure, only past performance is shown where it exists and scenarios are shown instead of past performance where it is more appropriate to do so.

Forcing all types of PRIIPs to have only one type of performance disclosure for the sake of comparability, means that we would be doing one of two things:

* comparing meaningful information for structured products with meaningless information for non-structured products if we go with future scenarios;
* comparing meaningless information for structured products with meaningful information for non-structured products if we go with past performance.

**Comparability should not come at the cost of providing meaningful information to retail investors**. That is why we believe the most effective way to address all concerns in regards to performance disclosure is to either make a change in Article 8(3)(d)(iii) of the PRIIP Regulation to distinguish between types of PRIIPs or reconsider what “appropriate performance scenarios” in this Article means. It is not clear why the approach taken by the UCITS rules (which accounts for the important difference between structured and non-structured products) is not deemed appropriate for PRIIPs. All other aspects of the KID would remain the same and be fully comparable.

The “second best” approach would be for scenarios to be recalibrated to show range of possible outcomes to reflect the “favourable”, “moderate” and “unfavourable” scenarios. Non-linear products could use their path dependent outcomes to show a best/average/worst case. Linear products could use historical observations to show the best/average/worst 5-year returns based on the last 10 year discrete annual return disclosure that exists in UCITS.

If neither solution is acceptable, given the complexity of the preferred probabilistic approach, the “third best” approach would be the provision of standard growth rates by the regulator as long as:

* The imbalance between active and passive funds is addressed (possibly by showing the rates on a gross of fees basis)
* These are complemented by disclosure of past performance where it is available.

<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>

The idea of illustrative scenarios, not just for structured PRIIPs but for all types of PRIIPs, is attractive, not least for educational purposes, in that they may explain in a more useful way how products work. There is a risk that this will affect comparability of products even within the same type. Moreover, longer narratives may be skipped and not read at all by retail investors as consumer testing has indicated that they find large blocks of text off-putting.

Having said that, we note that this is being proposed only for structured products while we think it could provide more meaningful information than the probabilistic scenarios for all types of PRIIPs.

<ESA\_QUESTION\_PKID\_23>

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

<ESA\_QUESTION\_PKID\_24>

If this option is being considered, then we would expect that it replaces probabilistic scenarios as we don’t see what is the added value of having both, particularly in the context of the 3-page space constraints. We would also expect for this to apply to all types of PRIIPs.

But before doing such a change, some input from consumer testing should be obtained.

<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>

See answers to questions 23 and 24.

<ESA\_QUESTION\_PKID\_25>

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

<ESA\_QUESTION\_PKID\_26>

**Schroders would be firmly in favour of including past performance information where it is available independently of what is decided about the future performance scenarios.** Past performance is the only factual information that exists on performance and is essential for assessing delivery and accountability.

There is an additional benefit that is specific to the discrete calendar year past performance disclosure that exists within the UCITS framework. Showing that returns go both up and down is a simple way to communicate volatility. There is evidence to suggest that investors use performance in that way from the original consumer testing of the UCITS KIID. The danger of using “straight line” projections and a snapshot of future scenarios is that they do not help investors understand the balance between short-term volatility and long-term growth.

As another example of the gaps in consumer testing, the ESAs state on page 32 that they did not propose testing showing only past performance as this was already tested in the context of the UCITS KIID. Although past performance was tested for the UCITS KIID this was done to test different types of presentation of past performance and not to compare it to alternative forms of performance disclosure such as future scenarios. Given that the new consumer research will look only into the combination of past performance and scenarios, to date, there hasn’t been (nor does it seem there will be) any consumer testing that compares and contrasts understanding and choices when consumers are presented with:

* Past performance
* Future scenarios
* Both

Another important point is to consider the outcome of the proposals in Sections 6 and 7 of the consultation paper. The combination of the two would mean having probabilistic scenarios and past performance for linear PRIIPs and probabilistic scenarios and illustrative scenarios for non-linear PRIIPs. First, this would seem to go against the comparability principle in that a different set of metrics is shown for different products. Second, if both structured and non-structured PRIIPs require performance disclosure on top of the probabilistic scenarios, then it begs the question why the probabilistic scenarios should be kept at all.

<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>

No, but space constraints is a real concern. Particularly if we consider that as part of the EU's sustainable finance agenda, there will eventually be a requirement to add details of environmental and social objectives. Digital delivery and IT tools may help in this respect by replacing the 3-page pdf document. But as discussed for Question 1, this would require changes to Level 1 regulation, which (if it happens) would anyway allow the necessary changes in the rules for performance disclosure, rendering the issue of space constraints obsolete.

<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 mentioned under Question 26, we consider that one significant advantage of the 10 year discrete annual return disclosure for UCITS is that it conveys volatility in a very simple and easy to understand way. Namely, that returns can go both up and down. The original consumer testing for the UCITS KIID had shown that consumers use this bar chart as an indication of risk as well as return. Showing averages would take this away.

<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>

If both past performance and scenarios are shown, there will need to be some narrative to explain that past performance is no guarantee for future outcomes and this should be followed by narrative that explains how the future scenarios are derived (i.e. based on historical observations) but without contradicting the first narrative.

This is a challenge in itself. It creates additional pressure for the space constraints, but given the potential to confuse investors, it is important to include an explanation of both and how they connect, even if the text is likely to be skipped by retail investors (as with all narratives). The results of the consumer research should provide some helpful insights in this respect.

<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>

See answer to question 29.

<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[[4]](#footnote-5)?

<ESA\_QUESTION\_PKID\_31>

We note that the specific amendments to the Q&A for UCITS/AIFs had not been subject to consultation even though some changes were quite significant. Namely, the definition of what could include or imply a reference to a benchmark is quite wide-ranging and in some cases, possibly not relevant to the construction of a fund or the delivery of the investment objective.

We consider that benchmarking rules that apply to UCITS should be transposed into the PRIIP regime but we would urge the regulators to review these where they have not previously been subject to consultation.

<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>

TYPE YOUR TEXT HERE

<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>

In the interests of simplicity, more concise information is preferable as long as it remains meaningful. In this context, it is not clear that the intermediate period is really needed. Showing costs for one-year and RHP should be enough to communicate the effect of costs (including entry fees) both if investors exit before the recommended holding period and if they hold their investment until the end of the RHP.

<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>

If the intermediate time period is kept, we believe that it should be standardised and applied to products that are very long-term.

<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>

We consider that both numbers would be relevant, but in the interest of providing as concise information as possible, we would prioritise the annual average cost figure at the RHP.

<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>

Schroders is of the view that this is not only helpful but also essential. Currently, because of the RIY indicator, investors see different numbers for the same datapoint. For example, investors looking at cost disclosure for an investment trust on a platform, would see numbers that are different than if they would open the link to the pdf of the KID (the link to which is usually provided right next to the cost disclosure).

As consumers have difficulty understanding percentages in the first place and are unlikely to read the details of the text, having different numbers for the same datapoint is very confusing and needs to be amended.

We do not support the use of the RIY indicator for all the reasons outlined on pages 36 and 37 of the consultation paper. Namely, it is theoretical as it needs to make an assumption for both time horizon and a rate of return, it makes one-off costs look smaller, and ultimately it does not answer “what are the costs” but rather that is the theoretical loss in return.

An additional element of consistency is between MiFID II/PRIIP disclosures and what can be read in other documentation, such as the (audited) annual long reports for funds where costs are again disclosed as a percentage of NAV.

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<ESA\_QUESTION\_PKID\_38>

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

<ESA\_QUESTION\_PKID\_39>

Schroders agrees that the cost disclosure needs to be revised, not least in order to achieve consistency with MiFID II figures. Considering the proposals, we welcome that:

* Ongoing costs are separated from transaction costs in a more prominent way
* There is an effort to move away from the use of the RIY indicator be more consistent with MiFID

This is a step forward but we do not view the proposals as a significant improvement. The top half of the tables in pages 82-93 of the consultation paper try to split RIY into steps. By doing so, they present “return per year before costs”, where costs include transaction costs. **Although returns can be gross of ongoing costs, entry and exit fees as well as performance fees, they cannot be gross of transaction costs**. Gross returns are the outcome of specific transactions for which transaction costs had to be incurred. A different level of transaction costs means that a different set of transactions took place, resulting in a different gross return. Transactions happen before the gross return, not after. That is why there is no such thing as return before costs as presented in the consultation paper. In this respect, even the RIY indicator is less misleading.

An additional concern is in regards to the large amount of information that is provided in all proposals. This risks overload for consumers and, importantly, none of this is part of the consumer testing so there is no way of knowing what investors would pay most attention to or how useful they would find this disclosure.

We believe that cost disclosure needs to:

1. show cost figures as a percentage of NAV to ensure consistency with MiFID II disclosures
2. remove the figures for RHP/2 because this is not adding any value
3. show RIY only on a total cost basis next to a total cost indicator that is expressed as a percentage of NAV
4. maintain the breakdown of individual cost components.

Hence, as with some aspects of the proposals on performance disclosure, there are some improvements but the fundamental issue is still not fixed.

<ESA\_QUESTION\_PKID\_39>

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

<ESA\_QUESTION\_PKID\_40>

A possible and more simplified way to present costs in a MiFID II consistent way is proposed in the table below, which keeps:

* the two-table format from the Delegated Regulation that clearly states total cost
* the RIY presentation of total costs but shows it in a less prominent way that makes an explicit statement on the return assumption
* the clearer distinction between ongoing charges and transaction costs proposed in the consultation paper

**Costs over time**

The person selling you or advising you about this product may charge you other costs. If so, this person will provide you with information about these costs, and show you the impact that all costs will have on your investment over time.

|  |  |  |
| --- | --- | --- |
| **Total costs if you invest €10,000** | **If you exit after 1 year** | **If you exit after [RHP] years** |
| Total costs per year in € | € | € |
| Total costs per year in % of the value of your investment | % | % |
| Impact of costs on the return each year  (assuming X% return) | % | % |

**Composition of costs**

|  |  |
| --- | --- |
| **One-off costs** | |
| Entry costs | X% of the amount you pay when entering your investment |
| Exit costs | X% of the amount you pay when you withdraw your investment before it is paid out to you |
| **Ongoing costs** | |
| Management fees and other costs | X% of the value of your investment per year based on actual costs over the last year. It covers all costs involved in operating and managing your investment. |
| Transaction costs | X% of the value of your investment per year, based on the average over the last 3 years. This is an estimate of the costs necessarily incurred when we buy and sell the underlying investments for the product. |
| **Incidental costs** | |
| Performance fees | X% of any returns achieved above the [benchmark], based on the average over the last 5 years. |

<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>

No. Please see our response to Question 39.

<ESA\_QUESTION\_PKID\_41>

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

<ESA\_QUESTION\_PKID\_42>

TYPE YOUR TEXT HERE

<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>

We welcome the fact that the ESAs are thinking of proportionality more broadly. Our concerns with the specific proposal to introduce thresholds relate to the incentive this creates to trade less in order to be subject to more simplified rules. A further concern is that a common threshold applying to all types of PRIIPs, would create and uneven playing field between open-ended and closed-ended funds as the former have to make transactions with every sale/redemption and are likely to have higher portfolio turnover rates. This is the case as well between active and passive funds as the former have higher turnover by definition.

We would like to use this opportunity to also make some comments on the proposed amendments to the estimation of transaction costs altogether as the consultation paper does not offer a separate question dedicated to this.

We believe that the proposed distinction between explicit and implicit transaction costs (provided that both are disclosed) is helpful given the different nature of these costs. Explicit transaction costs reflect a payment that has been made directly by the fund to cover broker commission and, where applicable, tax. Implicit transaction costs do not reflect a direct payment but rather value that is lost when making a transaction. Net returns incorporate the impact of both explicit and implicit transaction costs (as well as ongoing charges for that matter). Explicit transaction costs are very tangible and can be calculated. Implicit transaction costs reflect value loss but can only be estimated. That is why we believe aggregating the two is not as informative as disclosing them separately.

In regards to estimating implicit transaction costs, we welcome that the ESAs are moving from a slippage to a spread-based approach for some asset classes but we remain concerned that slippage is kept for others. The problem inherent in slippage based on the arrival price is that it captures not only the market impact of a specific transaction but also market movement. This market movement is effectively “noise”, which theoretically should net itself out at zero, leaving us with the “real” value of market impact. Practice has shown that this is only theoretical and that this noise does not net itself out, rendering all transaction cost figures inaccurate. Market movement that results in negative transaction costs is the most obvious manifestation of this (and here we have to remind that this is negative total transaction costs, i.e. the implicit part was so negative that it covered the explicit part which is always positive). This doesn’t mean that positive implicit transaction cost figures are reliable. The noise that goes into the estimation makes all observations, negative and positive, inaccurate. This is why we do not consider it is meaningful to propose to floor transaction costs at the level of the explicit part where implicit is negative. This simply masks the problem instead of offering a concrete solution.

There is another important point regarding the calculation of total transaction costs that includes any anti-dilution offset, which is calculated on a different basis to the arrival price methodology. This is a further reason why a floor wouldn’t work as it would create attribution issues. We present below three different scenarios with the floor to illustrate the transparency and comparability issues especially where MiFID II can ask for a breakdown.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Scenario 1: Flooring implicit costs** | | |  |  |
|  | **Actual** | **Floored** |  | **Difference** |
| Implicit | -0.10% | 0.00% |  |  |
| Broker commission | 0.03% | 0.03% |  |  |
| Taxes | 0.05% | 0.05% |  |  |
| Anti-dilution offset | -0.05% | -0.05% |  |  |
| **Total** | **-0.07%** | **0.03%** |  | **0.10%** |
|  |  |  |  |  |
| **Scenario 2: Flooring implicit costs & and anti-dilution offset** | | | **Difference** | |
|  | **Actual** | **Floored** |  |  |
| Implicit | -0.10% | 0.00% |  |  |
| Broker commission | 0.03% | 0.03% |  |  |
| Taxes | 0.05% | 0.05% |  |  |
| Anti-dilution offset | -0.05% | 0.00% |  |  |
| **Total** | **-0.07%** | **0.08%** |  | **0.15%** |
|  |  |  |  |  |
| **Scenario 3: Flooring total cost** | |  |  | **Difference** |
|  | **Actual** | **Floored** |  |  |
| Implicit | -0.10% | 0.00% |  |  |
| Broker commission | 0.03% | 0.00% |  |  |
| Taxes | 0.05% | 0.00% |  |  |
| Anti-dilution offset | -0.05% | 0.00% |  |  |
| **Total** | **-0.07%** | **0.00%** |  | **0.07%** |

Although there is no one correct way to estimate implicit transaction costs, we believe that extending the spread-based approach (that is currently proposed only for some asset classes) to all asset classes would provide for more meaningful transaction cost figures that are clear of market noise.

<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>

Yes, we agree to the need to reconsider the need for professional investors to receive a UCITS KIID. Professional investors can (and do) require tailored disclosures that are more detailed and sophisticated than what is in the UCITS KIID – and the PRIIP KID for that matter.

<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>

It would make sense to provide a KID when one starts a savings plan and when there are changes to this plan.

<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>

These requirements should be extended to all types of PRIIPs.

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<ESA\_QUESTION\_PKID\_49>

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

<ESA\_QUESTION\_PKID\_50>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<ESA\_QUESTION\_PKID\_52>

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

<ESA\_QUESTION\_PKID\_53>

TYPE YOUR TEXT HERE

<ESA\_QUESTION\_PKID\_53>

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

<ESA\_QUESTION\_PKID\_54>

TYPE YOUR TEXT HERE

<ESA\_QUESTION\_PKID\_54>

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

<ESA\_QUESTION\_PKID\_55>

Assessing implementation costs is not straightforward at this point, not least because it remains unlikely that the known issues with the PRIIP KID are going to be resolved with what is proposed in this consultation paper. Hence, sooner or later, further changes are very likely to be required resulting in additional implementation costs.

Nevertheless, the biggest concern remains whether investors will really benefit from ever changing versions of the same document, particularly if the design of these versions keeps prioritising comparability over meaningfulness of information.

<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>

TYPE YOUR TEXT HERE

<ESA\_QUESTION\_PKID\_56>

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

<ESA\_QUESTION\_PKID\_57>

TYPE YOUR TEXT HERE

<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. 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-5)