Comments Template for Joint Consultation Paper concerning amendments to ONthe PRIIPs KID (JC 2018 60)		Deadline 6 December 2018 23:55 CET
Name of Company:	ASSOGESTIONI	
Disclosure of comments:	Please indicate if your comments should be treated as confidential:	Public
	Please follow the following instructions for filling in the template: ⇨ Do **not** change the numbering in the column "reference"; if you change numbering, your comment cannot be processed by our IT tool ⇨ Leave the last column empty. ⇨ Please fill in your comment in the relevant row. If you have no comment on a question or a cell, leave the row empty. ⇨ Our IT tool does not allow processing of comments which do not refer to the specific numbers below. **Please send the completed template, in Word Format, to CP-18-005@eiopa.europa.eu** **Our IT tool does not allow processing of any other formats.**	
Reference	**Comment**	
General Comments	Assogestioni[1] welcomes the ESAs' initiative to begin to address the shortcomings of the current PRIIPs KID. However, we are concerned about the limited scope of the consultation, the short time to respond and the absence of a consumer testing that will ensure that the proposed amendments address all shortcomings. We would like to highlight that, however well-intentioned, the PRIIPs Regulation and its	

[1] Assogestioni is the trade body for Italian investment management industry representing the interests of members who manage funds and discretionary mandates around € 2,065 billion (as of September 2018).

	Regulatory Technical Standards could fail in their objective of empowering fund investors to make better and more informed investment decisions. We support a more comprehensive review of the PRIIPs framework that will address all the drawbacks of this challenging Regulation, included but not limited to the methodologies for the calculation of transaction costs and the overall cost disclosures towards investors. In order to avoid regulatory failure and to produce a coherent and well-staged process to the possible "phasing out" of the UCITS KIID, we strongly believe that the process put in place by the co-legislators in the PRIIPs Regulation (PRIIPs Regulation Articles 33) must be followed. It is clear from this consultation that information provided to investors with UCITS KIID is of great informative value, as it is also confirmed by their proposed inclusion in the PRIIPs framework. The UCITS KIID cannot be phased out without an in-depth assessment of all relevant provisions. As an example, the broad disclosure regime for UCITS should be reviewed since it would be inappropriate and costly, to make the UCITS KIID (only) for professional investors (which are not in the scope of PRIIPs) who are capable of analysing more complex information. It should also be confirmed the approach under the UCITS KIID framework for share classes, which makes it possible to present information on the most representative share class, where appropriate, fair and clear for investor. In similar way, it should be clarified that one single document would be sufficient, both in case of a single or of regular investments. While targeted changes to the Level-2 requirements may address some issues currently plaguing the PRIIPs KID, other issues can be solved only through changes to the Level-1 Regulation. Again, this underlines the need for a full review, as originally specified by the co-legislators.	

We understand the complexity of these discussions and again strongly underline that such decisions should be based on proper consultation on all the issues of detriment to retail investors and the results confirmed by consumer testing.

It is not in the best interest of retail investors to support the Commission's intentions to "phase out" the UCITS KIID by the end of 2019, upending the original sequencing as set out in the PRIIPs Regulation, and therefore having to put in place "quick fixes" that need to be agreed by the European co-legislators, at the latest, in Q2 2019 – only weeks before a new European Parliament is elected and a new European Commission constituted.

We would state clearly that the switch over from the UCITS KIID to the PRIIPs KID will carry material costs for the fund sector. Implementing or transitional costs become even higher where quick fixes reviews are followed by a larger review. The situation is not made easier by the fact that there are also other topics of concerns not addressed in the current consultation, such as the market impact of orders in the calculation of transaction costs. Timing is also another issue as the transition is a massive process that can start only once the regulatory framework is clear.

We are calling on the co-legislators to extend the exemption for UCITS in order to reinstate the original timeline and to allow time for a proper review of the PRIIPs KID. In light of the recent developments, we therefore stress our full support for the European Parliament's ECON Committee's proposal to extend the UCITS exemption until 2021.

This being said, we consider this ESAs' consultation and our subsequent comments as only a first preparatory step towards a full review in the near future and under a newly to be defined timeline. So, our comments on the points raised in this consultation should not be seen as any sort of endorsement to address substantial issues with rushed quick-fixes to the PRIIPs Regulatory Technical Standards.

	Comments Template for Joint Consultation Paper concerning amendments to ONthe PRIIPs KID (JC 2018 60)	Deadline 6 December 2018 23:55 CET
Q1	We would change the approach to the issue of what is “the most appropriate performance scenario” to present to investor for different PRIIPs. In line with UCITS KIID, we would devise two different solutions for linear and non-linear products. For linear products, historical representation of the past performance is a useful information from an investor point of view and should be included in the KID as the solo representation for the appropriate performance scenario, where it is available. The inclusion of past performance also contributes to the objective of the Capital Market Union Action Plan to foster the participation of retail investors in capital markets by supporting the assessment of the (net) return of retail investment products. Historical returns are fair, clear and help investors understand the benefits received in exchange of the cost of acquisition/holding the PRIIPs, together with a representation of the underlying characteristic of the market/product itself. When presented in a bar chart form (as in the UCITS KIID), this helps investors to understand that the value of investments can go up as well as down. Scenarios might not be suitable for all PRIIPs and, as a result, would offer little or no added-value for the end-investor and could confuse them. Performance scenario based on future performance moves the KID away from an objective description of the product to a description which necessarily involves a market view and could thus be seen by investors as a promise. As for future performance scenarios, also past performance information might not be suitable for all PRIIPs. Current structured funds UCITS KIID include only scenarios that explain how the structure works (what if scenarios) without any representation of the historical performance.	

	It should also be considered that including both past performance and performance scenarios, while maintaining clarity in the way information is presented, would be extremely challenging within the three-page limit on the length of the PRIIPs KID. In such a case, a change to the Level-1 Regulation limiting PRIIPs KID's length would be required.	
Q2	Structured UCITS are currently not required to include the past performance section, since this information is not regarded as useful to understand the essential elements of the product. We believe that this should also be the case for structured UCITS and AIFs when producing a PRIIPs KID. Historical information of structured products is not relevant.	
Q3	As indicated in the general comment, in line with the positive experience of the UCITS KIID, we strongly believe that this information should be based on the UCITS KIID framework. This information is highly standardised and has been in use for more than seven years now, allowing retail investors to understand the nature of the disclosure. Furthermore, we understand that this view is shared by investor representative organisations which, in particular, value the standardised nature of the disclosure. This includes the required use of an appropriate benchmark, where the investment approach of the fund includes or implies a reference to a benchmark, to enable (potential) investors to compare a fund manager's past performance with his peers as well as against the benchmark.	
Q4	Yes, we agree to the extent that simulated past performance is clear, fair and not misleading, as it is used under the UCITS KIID framework (please also see our response to Q5).	
Q5	Under the UCITS KIID framework, the use of simulated past performance is very limited to avoid situation where the information provided is not clear, fair and not misleading. This	

	principle should be followed also in the PRIIPs context. As an example, a UCITS which does not have past performance data over the required five or ten years could not show the benchmark for years in which the UCITS did not exist (Art. 18 of the UCITS KIID Regulation). Structured products do not present in the UCITS KIID any data on historical performance (even if this could be available after ist issue). With regards to the ESA's suggestion to "simulate" past performance where it does not exist, we would suggest caution with both proposed options. In addition to the drawbacks indicated in the consultation, for the first option proposed, in our understanding, there could be cherry picking based on the results of the simulation of the pay-off structures; as for the second option, the price histories of the underlying assets of a new structured fund (which at the date of issuance has no price history) are different to the price (NAV) of the structured fund itself (as the price would be available, only after issue) and should not be linked in the (same) presentation of the past performance. More generally, simulating a presentation based on historical data or on an estimate of future performance scenario are always simulations that should be treated separately and differently from the indication of (real) past performance. Considering the complexity of these issues, we again strongly underline that such decisions should be based on proper consultation with all stakeholders and the results confirmed by consumer testing. For this reason, we believe that such a question should be tackled in the full review of the PRIIPs Regulation rather than in this time-constrained exercise.	
Q6	Yes, we consider the amendments to be a move in the right direction. However, all the issues should be adequately tackled in the full review of the PRIIPs Regulation.	
Q7	It is a challenge defining performance scenarios that fit well for all PRIIPs. As indicated	

	above, we suggest a revision of the meaning of what it is the "appropriate performance scenario" for linear and not-linear products. For this reason, we would like to insist that past performance should be the only performance indicator for linear products. In any case, as regard the possible amendments for improving the future performance scenario we strongly agree on the analysis made by the ESAs where the risk neutral expectations do not consider the risk premium of different assets. The performance scenario would not be useful for investors, neither to understand the product nor for comparison with other products. In a similar way, the extension of the historical period used to measure the performance from 5 to 10 years, would not completely solve the issues, since market cycles can also last more than 10 years. On the other hand, the limitation of the presentation to two future performance scenarios showing the range of possible outcomes could be a better option, even if it is does not solve the fundamental question on the methodology itself. Regardless the methodologies and the representations adopted, any new approach must be rigorously tested and thoroughly assessed. In particular, they must be consumer tested to ensure that the information provided is of benefit to retail investors and does not risk mislead them. Again, such a discussion should take place as part of the wider Level-1 review of the PRIIPs Regulation and cannot be thoroughly undertaken in such a rushed and limited process as suggested now by the ESAs and the European Commission.	
Q8	We again suggest that future performance scenario would be not requested for linear products. In this context, in line with the UCITS KIID experience, the performance scenario for non-linear product expressed as historical performance should be shown by a graph. Presentation in a bar chart form helps investors understand that the value of investments can go up as well as down.	

	In any case, while we understand that there are potentially other ways to improve disclosure, any of these methods should be consumer tested and thoroughly assessed. As an example, we would expect the explanation of the range of results of two different scenarios could be clearer in a graph than in a table, but last consumer test put in evidence that graphs are difficult to understand for the average investors. We suggest that such a discussion should take place as part of the wider Level-1 review of the PRIIPs Regulation.	
Q9	We have some comments on the proposals described in this section. Again, as we had very little time to conduct a proper in-depth analysis, our comments should not be considered as exhaustive as further investigations might bring up other important aspects. <u>With regards to the MRM calculation for regular investment or premium PRIIP</u>, we generally agree that regular investments could have a lower risk than one single investment. That being said, that assumption should be empirically tested considering the breadth of the different risk classes, especially as the approach proposed is burdensome. Results may vary depending on the time horizon, with less differences the longer the time horizon considered, so it could also be the case that for a single investment or for regular investments the same MRM risk class could result. The information on MRM for regular investments could also be less relevant when the adequacy is based on the characteristics of the product rather than on the payment options (single or regular). In any case, if the volatility of regular investments is lower than a single investment, using the latter MRM in the offer documentation would be sufficient as it is prudential. Under the UCITS framework, the risk indicator (SRI) is the same, independently of the payment options.	

	Again, such a discussion should take place as part of the wider Level-1 review of the PRIIPs Regulation and cannot be thoroughly undertaken in such a rushed and limited process as now suggested by the ESAs and the European Commission. That being said, with specific regard to the methodology proposed, we have serious concern regarding the ESA’s proposal about the calculation in the case of regular investments. First, the relevant formula are described only in general term, which require an interpretation of the testing assumptions. Secondly, the methodology should be consistent, meaning that it always leads to the same result, independently from the payment option: the MRM of a single investment should be the same if it will be calculated under the current formulas or with the new approach proposed. In our understanding, the differences could stem from the introduction of a stochastic simulation in the case of a regular investment. Should a specific methodology for the MRM calculation for regular investment be regarded as necessary, a simpler and more consistent approach between the two different types of investment scheme could be considered, starting from available market practice. For instance, option 1 of the Comfort European PRIIPs Template (CEPT)[2], where a deterministic calculation is proposed (the VEV estimate of a single investment can be derived as a special case of a regular investment). <u>On the narratives for the Summary Risk Indicator (SRI)</u> we welcome the increase in length, however we would remove the character limit, thus allowing disclaimers to be put in place by the PRIIP manufacturer, while still complying with the overall PRIIP size limit.	

[2] CEPT is one industry’s standards for the provision of PRIIPs-relevant information on underlying investment options.

	As regards narrative for performance fees in the composition of cost table, we support the proposed flexibility. The proposed change in the growth assumption for the reduction in yield (RIY) confirms that the results of the scenarios could not be used for the presentation of the cumulative effects on costs. Until Level 1 requires showing the compound effects of the total costs on the investment, the choice of the same rate of return for all PRIIPs is a pragmatic solution. As the final figure would be sensitive to the assumptions chosen and it would be used not only to illustrate total aggregate costs but also as a comparison between products, considering that the identification of such rate implies the same growth for all different PRIIPs and would be discretionary, it could be argued that an 0% growth assumption could be a viable and possibly preferable option. In addition, as costs on a Reduction-In-Yield basis seems too difficult to understand for fund retail investors, we also suggest presenting, in the second table, costs as an annual percentage only (in line with the current UCITS KIID maximum costs disclosures). This would mean that this table would in effect contain a 0% growth assumption and allow investors to see the annual costs on a yearly basis including, critically, the actual size of any entry charge in the first year, rather than a much smaller amount spread over several years.	
Q10	We welcome the confirmation that the UCITS KIID framework is essential to the disclosure of information to investors. It seems clear from the consultation, given the ESAs' very high-level and preliminary analysis, that the UCITS KIID cannot be phased-out without an extensive and appropriate assessment of all relevant provisions. We are astonished by the ESAs' presumption on page 30 that should UCITS be required to	

	provide a PRIIPs KID to retail investors, the UCITS KIID may still be provided to professional investors. In the case of a phasing-out of the UCITS KIID, we disagree with continuing to provide a UCITS KIID to professional investor. We would support a more general review of the documentation offer. The cost to produce two different KI(I)D for retail and professional investor would not be justified since professional investors are capable of analysing more complex information. The approach under Article 26 of the UCITS KIID Regulation for share classes should be confirmed also under the PRIIPs framework. This makes it possible to present, where appropriate, fair and clear for investor information on the most representative share class. In similar way, it should be clarified that one single document could be used both in case of a single investment and of regular investments. All provisions regarding UCITS KIIDs should be reflected in the MOPs provision, where the fund is an underlying option. Every single provision to be included in the PRIIPs KID should be measured against the aim of maintaining the KID concise and easily readable. As the industry will not be able to see and comments on any of the detailed “UCITS additions” to the PRIIPs framework until they are sent to the co-legislators for approval, we again must stress the need to reinstate the original sequencing as laid out in Article 33 of the Level-1 PRIIPs Regulation in order to produce a coherent and well-staged process to the possible “phasing out” of the UCITS KIID.	
Q11	We would state clearly that the switch over from the UCITS KIID to the PRIIPs KID will carry material costs for the fund sector. The situation is not made easier by the fact that there are also other topics of concerns not addressed in the current consultation, such as the market impact of orders in the calculation of transaction costs. Implementing or	

	transitional costs become even higher where quick fixes reviews are followed by a larger review. Timing is also another issue as the transition is a massive process that can start only once the regulatory framework is clear.	
Q12	Please see our response to Q11 as regard the transitional implementation costs. In any case, for structured funds we believe that implementation costs for the simulation of past performance (which we do not support) are expected to be material.	
Q13	Yes, we refer to the obligation of determining the transaction costs with the methodology stated in the Regulatory Technical Standard (RTS). As regard the arrival price method, we are of the strong view that market impact costs should not be included in the costs presented under the PRIIPs Regulation, as this impact is due to the market. Also considering the doubtful results, the costs of measuring transactions costs in such a granular way appear to outweigh benefits to investors. The methodology will indeed require detailed information and the practical application will present a number of challenges. While stressing that we support the disclosures of transaction costs, a revised methodology is needed that provides fair, clear, non-misleading and consistent cost information to investors, while keeping in mind the overall reasonableness and proportionality of the system and that 100% accuracy, in particular regarding implicit costs, is not achievable via any method chosen. It should be noted, that in the case the UCITS KIID is phased out by the end of 2019, the request for availability of data on the "arrival price" relates to periods prior the entry into force of the PRIIPs Regulation for UCITS (if they have been operational for more than three years). In this regard, we would like to highlight the difficulty and the costs of the recovery of the relevant information necessary for the calculation for the entire requested period, as the special provision applicable to prices before December 31, 2017 would not be relevant.	

	The RTS states two different methodologies for the estimation of transaction costs, one for existing funds and one for new funds. The presence of two different methods should be avoided, where these are not complementary to each other because they would imply double operational costs. In addition, the methodology for new funds requests information on the underlying of one or more reference indices. This may generate fees payable to index or data providers to collect also data on bid-ask spread. From a cost point of view, the method could be improved by using the average observations of half the bid-ask spreads in certain assets/asset classes. Finally, the cost of producing such information should be assessed also considering proportionality with regards to characteristics of different market players.	