	Comments Template for Joint Consultation Paper concerning amendments to the PRIIPs KID (JC 2018 60)	**Deadline 6 December 2018 23:55 CET**
Name of Company:	Commission consultative épargnants de l'AMF	
Disclosure of comments:	Please indicate if your comments should be treated as confidential:	Public
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General Comments	INTRODUCTION : These are the comments of the Commission consultative épargnants of the AMF / Retail Investors Consultative Commission, and not the ones of the AMF (Autorité des marchés financiers). Comprising financial market participants, experts in management or market operation, representatives from professional associations or investor advocacy groups, the five AMF Consultative Commissions help inform the Board's decisions on changes to regulations or AMF policy.	

	One commission for each of the AMF's main areas of action : Acting on its determination to dialogue and collaborate with members of the Paris financial community, the AMF Board set up five Consultative Commissions. Each comprises 20 or so experts and is devoted to a specific area of AMF action: - Retail Investors - Markets and Exchanges - Clearing, Custody and Securities Settlement - Asset Management and Institutional Investors - Disclosures and Corporate Finance An outside perspective to assist the AMF : The members of the Consultative Commissions hold discussions and provide opinions to assist the AMF in its deliberations and help it formulate policy in the light of developments affecting products, market structures and the legal and financial environment, both domestic and international. The Board consults the commissions on draft legislation and emerging regulatory issues. Each Consultative Commission is chaired by a Board member and meets on average once a month. The commissions operate in accordance with two charters adopted by the Board and signed by members. The first is specific to the Retail Investors Commission, while the second applies to the other four commissions. LA COMMISSION CONSULTATIVE EPARGNANTS welcomes and appreciates the effort of the European Commission and of the European Supervisory Authorities to put forward proposals for targeted amendments of the Delegated Regulation (DR) concerning the presentation and content	

	of the key information document (KID) for Packaged Retail and Insurance-Based Investment Products (PRIIPs). First, LA COMMISSION CONSULTATIVE EPARGNANTS finds that the very short consultation timeframe (less than a month) on such an important as well as technical issue puts representatives of savers and consumers at a strong disadvantage and gives us too little time to provide a detailed and complete response. Second, LA COMMISSION CONSULTATIVE EPARGNANTS wishes to stress that it has always strongly supported the aim of the PRIIPs Regulation: - It is the first – and so far the only - “horizontal” EU set of investor protection rules that encompasses both non-insurance based and insurance based retail investment products. - The PRIIPs KID aims “to enable retail investors to understand and compare the key features and risks of the PRIIP” (article 1 of the PRIIPs Level I Regulation). This major investor protection initiative must be effective and preserved for EU savers' sake. “The concept of the Kid is admirable; unfortunately, its execution is a disaster.” The purpose of the PRIIPs Regulation is indeed more precise and clearer than that stated by the ESAs in the consultation paper: it is again “to enable retail investors to understand and compare the key features and risks of PRIIPs” However, the resulting Key Information Document (KID) is: - very difficult to understand, - and almost impossible to compare even for the finance experts, not to mention the average European saver. - It is also much too often highly misleading for savers and investors, especially regarding the “future performance scenarios”, one of which is in turn used to compute and disclose so-called “reduction in yield” cost . “The only function of economic forecasting is to make astrology look respectable.” (Ezra Solomon, Professor of Finance, Stanford University)	

	"Future outcomes are impossible to predict" (ESAs' November 2018 Consultation Paper on PRIIPs, page 10) "Key information documents are misleading because, when you wade through the complexity, the prospective returns are little more than a projection of historic returns over the past five years. This is a triumph of pseudoscience over common sense. Such past performance is no guide to the future. In the past, regulators have rightly emphasized to investors that past performance should not be used as a guide to what they can expect in future. Yet it seems that they have not succeeded in persuading themselves of this important truth." (Professor John Kay, Financial times, January 2018) Albeit most of the ESAs proposals to amend the DR are aimed into the right direction, they are unfortunately far from actually addressing these fundamental issues LA COMMISSION CONSULTATIVE EPARGNANTS and most other stakeholders have repeatedly highlighted in relation to the information presented in the PRIIPs KID. Moreover, a significant number of other serious issues are also not addressed, nor identified by this Public Consultation: • The violation of several MIFID II rules concerning information disclosure; in particular "Future performance information based on past performance should be accompanied by a prominent warning that it is not a reliable indicator of future performance" . • The overly optimistic assumptions of future performance scenarios: last 5-year historic performances which were "bull" market years for both stocks and for bonds), their misleading linearity, and the inadequate and usually too short-term past performance basis (only five years including for pension products such as life cycle funds); • The method to evaluate transaction costs leads sometimes to "negative costs" (i.e. income) which is non-sense and can only confuse individual investors; • The quasi impossibility to compare costs from one product to the other; • The "sovereign" power of each and every PRIIP manufacturer regarding the choice of the	

	recommended holding period, that highly impacts current cost disclosures in the KID; • The absence of any disclosure of objective benchmarks with which the product's performances can be compared. Moreover, LA COMMISSION CONSULTATIVE EPARGNANTS is very thankful to the ESAs to propose in this CP to reintroduce the disclosure of long term (ten years minimum) past performance and relative to their investment objectives (benchmarks, as currently mandated to UCITS funds. Indeed, the current KID eliminates all comparable and standardized information on long-term past performance of both the PRIIPS and of their benchmarks, preventing investors from: - Knowing whether the product has made any money or not for the investor in the past, hiding instead this crucial info to consumers (e.g. high fee money market funds which have destroyed value in recent years) - Assessing if/how the manager has achieved its investment objectives - Comparing similar products (e.g. two European equity index funds). - Also, long term past performance relative to benchmarks (not short term absolute past performance) can still be a reliable indicator of future performance for specific categories of retail investment products such as index funds/ETFs and with profit insurance policies: as for both the level of fees is highly predictive of future returns. However, only placating the past performance graph of the UCITS KIID next to the existing future performance scenarios, which will remain, and in addition remain as they are (same methodology and same numbers as acknowledged by the ESAs' CP) will confuse investors further. A full review of the PRIIPs Regulation (level 2 and level 1) is highly demanded by all stakeholders. The European Commission should have done it already this year to comply with Article 33 of the Level 1 Regulation. Thanks to the European Parliament, an amendment seems likely to require the EC to do the full review by next year (2019). LA COMMISSION CONSULTATIVE EPARGNANTS strongly supports this amendment. This would give time to conduct a consumer testing to improve this ill-designed Regulation and allow for the collection of robust evidence and data.	

	Moreover, these “quick fixes” to level 2 Regulation only should not exempt EU Authorities to make the more important and profound changes following the full review. This would result in changing the KID for the same product for the third time in a row in the course of about 2 or 3 years, adding to the confusion of retail investors and unnecessarily burden PRIIPs manufacturers. The number of revisions should be reduced to the minimum possible, for purposes of legal certainty and clarity. To conclude, LA COMMISSION CONSULTATIVE EPARGNANTS asks the European Commission and the ESAs to address possible amendments to the current PRIIPs KID as soon as possible through a full review, including Level 1 legislation, rather than trying to patch it first with“targeted” “quick fixes”in haste , without consumer testing, and on the level 2 Regulation only .	
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