JOINT COMMITTEE OF THE EUROPEAN SUPERVISORY AUTHORITIES

Response form for the Joint Consultation Paper concerning amendments to the PRIIPs KID

16 October 2019

Date: 16 October 2019
ESMA 30-201-535

JOINT COMMITTEE OF THE EUROPEAN SUPERVISORY AUTHORITIES

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] (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] (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:

- Insert your responses to the questions in the Consultation Paper in the present response form.
- 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.
- 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.
- 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.

[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
[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.

- 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 under the heading 'Your input - Consultations' by **13 January 2020**.

- 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]. Further information on data protection can be found under the Legal notice section of the EBA website and under the Legal notice section of the EIOPA website and under the Legal notice section of the ESMA website.

[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.

General information about respondent

Name of the company / organisation	DDV, German Derivatives Association
Activity	Banking sector
Are you representing an association?	☒
Country/Region	Germany

Introduction

Please make your introductory comments below, if any:

<ESA_COMMENT_PKID_1>

The DDV, as representative of the leading issuers of structured products in Germany, welcomes the opportunity to provide comments in relation to the Joint Consultation Paper JC 2019 63, published by the European Supervisory Authorities on 16 October 2019 (hereinafter **"CP"**) concerning amendments to the PRIIPs KID. We would like to emphasize that the amendments which are currently being discussed in the CP, with respect to the performance scenarios and the costs are, in our opinion, not able to fully solve the observed issues in the current PRIIPs-methodologies for structured products. Even the ESAs state in the CP that some of the concerns expressed by stakeholders in the past relating to performance scenarios and costs might not be entirely resolvable through a change on the level of the Delegated Regulation ("Level II"). If we know that already or even if there is a certain likelihood that alternative approaches will not result in a better and more comprehensible KID for sure, then it does not seem appropriate to change Level II ahead of amendments to the level of the PRIIPs Regulation ("Level I"). Slight or a few improvements in the outcomes do not justify a review of Level II now and a review of Level I in the upcoming years. Consequently, we think that if the PRIIPs Regulation is reviewed it should be conducted through a full and comprehensive review not only on Level II but also on Level I, where necessary. This seems to be inevitable in order to achieve, inter alia, the main goals of the PRIIPs Regulation – a more meaningful, comprehensible and comparable Key Information Document ("KID").

We have severe doubts whether the chosen path is the right way forward to provide real added value to the retail investor. Even if the proposed and discussed methodologies in the CP might fix some of the problems in relation to performance scenarios and costs we still think that the overall approach has not been thoroughly discussed and evaluated. In this regard a comprehensive non-biased consumer testing including all of the different approaches and a variety of products is necessary as they all have advantages and disadvantages. Unfortunately, as stated by the ESAs, not all discussed options have been included in the consumer testing due to the feedback of the EU Commission from mid-July.

In addition, any changes to the existing methodology need to be thoroughly analysed and tested in order to see the impact on the results on a wide range of concrete products and payoff profiles. The discussed amendments to the probabilistic approach may be suitable to mitigate at least some of the observed issues. However, this is a very preliminary assessment as a detailed analysis has not been provided and, unfortunately, we will not be able to conduct sufficient testings ourselves in this short consultation period in order to be certain that the new approaches will lead to a better KID. With respect to structured products, the CP states that only 63 different structured payoffs were tested whilst a repetition of the tests using the proposed methodology resulted in largely similar results. We cannot be certain that the discussed changes will lead to accurate results for all or at least most of the structured product payoffs in the market. As a general comment, we would also like to point out that the discussed changes especially around the dividend-based methodology in the performance scenario section would further increase the costs of required market and license data whose price levels already increased significantly in recent years. Please note that a further increase in market data costs occurring under the PRIIPs regulation would, at the end, also result in more expensive products which is clearly to the detriment of retail investors.

We are also very certain that compensatory measures which are considered by the ESAs in the CP are not the right way forward to a better and more understandable KID. On the contrary, these measures would make the KIDs and products even less comparable as a discretionary element for the manufacturer would be introduced. Therefore, we are very critical in this regard and would like to object here. In light of the aforementioned introductory comments, the following remarks are to be read primarily as technical feedback. They cannot be read as an expression of support by the DDV or its members of the fundamental choice of the probabilistic approach to display performance scenarios in the KID. The same holds true for the approach to calculate and display costs. We remain very sceptical towards both approaches.

<ESA_COMMENT_PKID_1>

Q1 : Are there provisions in the PRIIPs Regulation or Delegated Regulation that hinder the use of digital solutions for the KID?

<ESA_QUESTION_PKID_1>
No, from our point of view, there are no provisions in the PRIIPs Regulation that hinder the use of digital solutions for the KID. However, the PRIIPs Regulation in general privileges the provision of the KID in a paper based format which could be reconsidered in light of current sustainability efforts.
<ESA_QUESTION_PKID_1>

Q2 : 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>
No, we do not think that this would provide any benefit for market participants as we do not see any problems with the technical transmission of the KID and its respective data. Sufficient market solutions such as standardised information exchanges through central databases were implemented prior to 2018 in this regard. Therefore, there is no need to facilitate the reception of the KID in a maschine readable format.
<ESA_QUESTION_PKID_2>

Q3 : 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 refer to our introductory remarks in this regard. We have serious doubts that the proposed amendments really result in a more understandable KID, especially with respect to the performance scenarios but also the costs. This is due to the fact that its already forseeable that there will not be sufficient time to analyze and evaluate all proposed methods in full detail and conduct testings on enough products and payoff profiles. Therefore, we have a tendency that any amendments will be implemented at the beginning of 2022 rather than mid 2021. However, it is even more important for our members that due to the implementation efforts any new requirements create there will only be one implementation date. We are clearly against any type of progressive or graduate application.
Even more important than the actual implementation date is the necessity that market participants will be given sufficient time between the publication of any finalized new requirements and the date of the actual application. Depending on the amount of the amendments, sufficient time is necessary for the respective technical implementation. Notwithstanding the plea for a fixed application date of new RTS provisions, the DDV would therefore, in order to ensure the manageability of implementing changes in the regular workflow of banks, strongly advocate introducing a grandfathering clause for still allowing the use of KIDs established under currently applicable RTS for at least one year, starting with the enforcement date of any new RTS provisions.

<ESA_QUESTION_PKID_3>

Q4 : 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>
Please see our answer to Q3. We are not supportive of any graduated application of new requirements in this regard and sufficient time must be given prior to the implementation of adaptions. This includes a grandfathering clause as mentioned above.<ESA_QUESTION_PKID_4>

Q5 : 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>
There are several issues like e.g. the uncertainty regarding the scope of application of the PRIIPs Regulation with respect to certain debt instruments or OTC derivatives which can only be addressed with a full PRIIPs review (including Level I). Therefore, we think its necessary to generally review both Level I and Level II especially as Art. 33 of the PRIIPs Regulation is not limited to a review of the Delegated Regulation only. In addition, subsequent to the application of the PRIIPs Regulation a few important statements have been made by the ESAs via Q&As on Level 3 which should also be incorporated into the PRIIPs review.
<ESA_QUESTION_PKID_5>

Q6 : 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>
As mentioned in our introductory remarks, we are of the opinion that a consumer testing exercise would have been most efficient if it had included all of the different approaches for the modifications of future performance scenarios.
<ESA_QUESTION_PKID_6>

Q7 : 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>
We agree with the current draft to eliminate the intermediate scenarios as well as the stress scenario. Especially intermediate scenarios pose a challenging technical issue, investors have difficulties in understanding them and they provide no or only very limited information. In the interest of providing the investor with only useful information the intermediate scenarios should be removed.

As a side note, we are sceptical in general to use a performance assumption for the 'What are the costs?' section of the KID as this hinders the comparability of the cost disclosure pursuant to the PRIIPs Regulation and MiFID II. We still think that it is desirable to harmonize and even synchronize both cost presentations and therefore, both sets of rules, the PRIIPs Regulation and MiFID II, should be aligned. The alignment should be based on the MiFID II approach as, inter alia, the distributor which is responsible for the cost statement under MiFID is not aware of the cash flow of the moderate scenario which is necessary in order to calculate the RIY under PRIIPs.

If this approach is kept, we suggest to use either a prescribed return assumption for calculating the intermediate costs or to use the (per annum) return before costs (including all intermediate payments before the intermediate point) of the moderate scenario at RHP. This way, the impact of costs for exiting early is illustrated without increasing complexity. Otherwise, calculating the intermediate scenarios would still be needed although they are not shown, i.e. the technical issues remain and it increases intransparency for the investor on how the intermediate costs are calculated. If the intermediate scenarios are to be kept, it is highly important to further specify their calculation to achieve comparability and to clarify e.g. if and how to discount within the interim simulations: using a riskfree rate or if a credit spread should be added, using the current (static) or simulated (stochastic) rates.
<ESA_QUESTION_PKID_7>

Q8 : 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>
In general, the DDV is of the opinion that a stress scenario does not provide much benefit for the investor and could be removed altogether. This would further reduce the information load for the retail investor.

If the stress scenario is to be kept, it is important that the growth rate for the stress scenario should be equal to the growth rate of the other performance scenarios. The distinction between short and long-term stress volatility should be eliminated since this can cause inconsistent results when either presenting intermediate scenarios or when a product switches from long- to short-term stress volatility.
<ESA_QUESTION_PKID_8>

Q9 : Do you agree with how the reference rate is specified? If not, how should it be specified?

<ESA_QUESTION_PKID_9>
No, we don't agree with the proposal, since a country-specific curve poses a challenge in selecting the appropriate curve and can lead to inconsistent/incomparable results between manufacturers and between different underlyings that are quoted in the same currency due to the differences in government yield curves. Instead, it is market-standard to use currency-specific zero rates bootstrapped from e.g. forward rate agreements, interest rate futures and swap rates.

<ESA_QUESTION_PKID_9>

Q10 : The revised methodology specifies that the risk premium is determined by future expected yields. The methodology further specifies that future expected yields should be determined by the composition of the PRIIP decomposed by asset class, country and sector or rating. Do you agree with this approach? If not, what approach would you favour?

<ESA_QUESTION_PKID_10>
We refer to our sceptical introductory comments regarding the probabilistic approach in general. We also think that the proposed dividend-based methodology is not the right way forward to establish risk premiums for equities for various reasons. A growth rate equivalent to the risk-free rate is fine for price return products (i.e. where the investor is NOT entitled to receive dividends). However, additionally, we would suggest to remove any discretionary component from the estimation by simplifying the equity risk premium (ERP) for total return products (i.e. where the investor is entitled to receive dividends etc.) to a long-term average value determined by e.g. the ESAs. This way, any potential difference in estimated dividends or buyback rates is prevented.<ESA_QUESTION_PKID_10>

Q11 : 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>
We refer to our introductory comments regarding the potential increase in license and market data costs which has to be avoided by all means. However, if dividends are to be estimated, we prefer to use historical dividends in order to eliminate potential differences in expected dividends from either internal or external sources.
<ESA_QUESTION_PKID_11>

Q12 : How should share buyback rates be estimated?

<ESA_QUESTION_PKID_12>
We suggest not to include buyback rates as they are not as stable over time and would increase estimation risk even further. Our suggestion of using a long-term ERP would eliminate the necessity to estimate buyback rates.
<ESA_QUESTION_PKID_12>

Q13 : 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>

Q14 : 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>
The proposal of using historical returns for the future variance is in our view appropriate and well-understood by investors. Using implied volatility could lead to inconsistent results between different manufacturers (estimation risk + discretion about which implied volatility to use from the volatility surface) and a systematic difference between underlyings with or without traded options. We therefore suggest to use historical returns as source for future variance.

<ESA_QUESTION_PKID_14>

Q15 : Do you think compensatory mechanisms for unforeseen methodological faults are needed? If yes, please explain why.

<ESA_QUESTION_PKID_15>
As already emphasized in our introductory remarks, we think that the proposed compensatory mechanisms are not at all beneficial for structured products and could result into a bias. These measures would also deteriorate comparability between several PRIIPs even further. Including manufacturer’s expectation introduces a highly discretionary component that would lead to incomparable results. In light of the general probabilistic approach it is also not comprehensible why the scenarios should be calculated with complex formulas at first just to subsequently adjust them where necessary. This could confuse the retail investor further as the figures might look more realistic even though they are not precise. Furthermore, to use historical performances to adjust the performance scenarios is conceptually inconsistent because it compares one historical realization of a return path with a percentile of a distribution.

<ESA_QUESTION_PKID_15>

Q16 : 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>
Please see our answer to Q15.
<ESA_QUESTION_PKID_16>

Q17 : 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>
If the stress scenario is to be kept, the growth rate of the other performance scenario should be equal to the growth rate of the stress scenario.
<ESA_QUESTION_PKID_17>

Q18 : 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>
We generally welcome more simplified approaches but specifying maximum growth rates and using historical drifts up to the maximum growth rate is inferior to and not less complex than the current proposal presented in our response to Q10, i.e. to use a fixed ERP for equities.
<ESA_QUESTION_PKID_18>

Q19 : 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>
Please see our answers to Qs 10 and 18.
<ESA_QUESTION_PKID_19>

Q20 : 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>
No, the methodology should be compatible for Category 2 and Category 3 products and should not differentiate between short- and long-term.
<ESA_QUESTION_PKID_20>

Q21 : 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>
As already described in our response to Q10, a slight modification of the ESA's proposal with a fixed ERP for total return products on equities would be necessary.
<ESA_QUESTION_PKID_21>

Q22 : Are there any other approaches that should be considered? What evidence are you able to provide to support these other approaches?

<ESA_QUESTION_PKID_22>
No, the list of alternative approaches is in our view comprehensive enough.
<ESA_QUESTION_PKID_22>

Q23 : Do you think illustrative scenarios should be included in the KID as well as probabilistic scenarios for structured products?

<ESA_QUESTION_PKID_23>
We will not comment on the question whether or not illustrative scenarios are better, worse or equally good as other approaches. As mentioned in our introductory remarks, the discussed methodological approaches all have advantages and disadvantages and all of them should be properly analysed and tested. We would like to point out though that in Germany, we have had positive experiences with deterministic what-if scenarios as they have been used in the previous national product information sheets for structured products. Generally speaking, with a prescribed methodology that allows for comparability, such scenarios may be able to illustrate the characteristics and specific peculiarities of a structured product. However, to define such detailed methodology for all EU manufacturers and existing payoffs would indeed be very challenging

With respect to Q23 we also think that due to the limitation to three pages in the PRIIPs Regulation, it is impossible to include illustrative scenariosinto the KID in addition to the probabilistic scenarios. Also, additional scenarios might deteriorate the comprehensibility of the KID even further as the investor is already overloaded with information and most likely would not understand the difference between probabilistic and illustrative scenarios. Therefore, it is appropriate to stick to one methodology.
<ESA_QUESTION_PKID_23>

Q24 : If not, do you think illustrative scenarios should replace probabilistic scenarios for structured products?

<ESA_QUESTION_PKID_24>
Please see our answer to Q23.
<ESA_QUESTION_PKID_24>

Q25 : 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>
Please see our answer to Q23. In general, we are of the opinion that it would hinder comparability if illustrative scenarios were limited to Category 3 PRIIPs.
<ESA_QUESTION_PKID_25>

Q26 : Would you be in favour of including information on past performance in the KID?

<ESA_QUESTION_PKID_26>
We are against the inclusion of past performance information in the KID as this would further deteriorate comparability between several PRIIPs. This is due to the fact that many PRIIPs such as primary market issuances or products with a short product lifetime cannot possess sufficient data in this regard. Furthermore, past performance does not lead to a proper assumption about future performance. In any case, information regarding past performance is already provided for the respective products via information materials outside the KID so we see no need for an adjustment in this regard.
<ESA_QUESTION_PKID_26>

Q27 : 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>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_27>

Q28 : 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>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_28>

Q29 : 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>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_29>

Q30 : 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>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_30>

Q31 : 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]?

<ESA_QUESTION_PKID_31>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_31>

Q32 : 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>

Q33 : 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>
As a general statement, we have serious concerns with respect to the reduction in yield ("**RIY**") approach which should be abolished in our point of view together with the cost disclosure requirements under the

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[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

PRIIPs Regulation altogether. The retail investor receives transparent and sufficient information on costs and charges of the financial instrument in any case under the MiFID II cost transparency rules. This would remove many of the practical problems we see in relation to the cost disclosure under the PRIIPs regulation. Please also see our comments to Q36 and Q39 below. With respect to Q33, we tentatively agree with the proposal but have no strong opinion since we see no problem with the current rule of RHP/2.

<ESA_QUESTION_PKID_33>

Q34 : In this case (of a fixed intermediate time period), do you agree to show costs if the investor would exit after 5 years for all PRIIPs with a recommended holding period of at least 8 years? Or do you prefer a different approach such as:

<ESA_QUESTION_PKID_34>
As long as it follows a clear rule, we support any of the above. The current RHP/2 seems to be a bit simpler to follow than to find appropriate rules for different time periods.
<ESA_QUESTION_PKID_34>

Q35 : 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 do not support showing the total costs as a percentage since this could lead to confusion with the impact on return already expressed as a percentage. Furthermore, as mentioned broader in our answer to Q 7, we think that it is desirable to harmonize and even synchronize the cost presentations under the PRIIPs Regulation and MiFID II. Therefore, both sets of rules should be aligned. The alignment should be based on the MiFID II approach as, inter alia, the distributor which is responsible for the cost statement under MiFID is not aware of the cash flow of the moderate scenario which is necessary in order to calculate the RIY under PRIIPs.
<ESA_QUESTION_PKID_35>

Q36 : 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>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_36>

Q37 : 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>

Q38 : 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>

Q39 : Do you agree with the ESAs' preferred option 3 to revise the cost tables?

<ESA_QUESTION_PKID_39>
No, not in the form presented especially as table 2 contains too much information and is overly complex with different holding periods within the table. Option 3 causes an overflow of information with providing retail investors with over 30 different numbers (against 12 numbers in the current KID which are already difficult to explain). Option 3 does not meet the objective of simplifying the KID and make it more understandable for investors.
Also, we do not see that this approach would lead to an alignment with the cost disclosure under MiFID II. Therefore, in line with our answer to Q 36, we think it would be best to eliminate the cost disclosure requirements under the PRIIPs Regulation altogether as the retail investor receives transparent information on costs and charges of the financial instrument in any case under the MiFID II cost transparency rules. If this is not possible, we have, as already pointed out in our answer to Q33, serious concerns with respect to the RIY approach which should at least be abolished. The RIY calculation can get quite complex for structured products and include components (e.g. opportunity costs) and a calculation method (internal rate of return) that are hard to comprehend for a retail investor. In addition, basing the cost calculation on the moderate scenario can have non-transparent effects on the RIY, i.e. a reconciliation of a RIY is only possible if the exact timing and level of cash flows of the moderate scenario path are known.
Alternatively, we propose the usage of an annualized total expense ratio (TER) for products with a RHP over 1 year which will be consistent with MiFID II and leads to better comparability between products with different recommended holding periods.
In case the RIY will not be abolished, the DDV prefers to keep the existing methodology in the PRIIPs-Regulation.
<ESA_QUESTION_PKID_39>

Q40 : If not, which option do you prefer, and why?

<ESA_QUESTION_PKID_40>
Please see our answer to Q 39. Additionally, we are not in favour of any of the options presented in the CP. We would prefer to use the Table 1 of option 3 but keep table 2 as it currently is or at least to eliminate the different holding periods within Table 2. Including the time perspective in the breakdown of products would increase the number of costs figures significantly, causing much higher complexity with only very limited additional value.
<ESA_QUESTION_PKID_40>

Q41 : 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>
Please see our answer to Q 39. Generally speaking, we would welcome the presentation of the returns before and after costs because it may help investors to better understand the RIY. The addition of the time perspective in the costs breakdown however might lead to confusion and unnecessary complexity.
<ESA_QUESTION_PKID_41>

Q42 : Do you have other comments on the proposed changes to the cost tables?

<ESA_QUESTION_PKID_42>
Please see our answer to Q 39. If the intermediate scenarios are eliminated from the performance scenarios, a transparent return assumption is needed to calculate the intermediate costs. Please see our response to Q 7 for a suggestion of a simple and transparent solution.

<ESA_QUESTION_PKID_42>

Q43 : What are your views on the appropriate levels of these thresholds? Please provide a justification for your response.

<ESA_QUESTION_PKID_43>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_43>

Q44 : 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>
TYPE YOUR TEXT HERE
<ESA_QUESTION_PKID_44>

Q45 : 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>
The UCITS Regulation takes into account that the retail investor usually takes an investment decision only once when concluding a savings plan and not again during the subsequent execution of the saving instalments. This appropriate condition should also be applied for savings plans under the PRIIPs Regulation as the Regulation makes clear that the KID should form the basis of the investment decision. After the initial investment decision at the time of the conclusion of the savings plan the investor has the PRIIP in its portfolio and is able to monitor how the product performs and which costs are incurred (annual cost reporting). There is no need for any additional provision of the KID at this time.
<ESA_QUESTION_PKID_45>

Q46 : 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>
The requirements should not be extended to other types of PRIIPs since they are mainly fund-specific.
<ESA_QUESTION_PKID_46>

Q47 : 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>

Q48 : 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>

Q49 : 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>

Q50 : 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>

Q51 : 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>
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<ESA_QUESTION_PKID_51>

Q52 : 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>

Q53 : 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>

Q54 : Are there other approaches or revisions to the requirements for MOPs that should be considered?

<ESA_QUESTION_PKID_54>
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<ESA_QUESTION_PKID_54>

Q55 : Do you have any comments on the preliminary assessment of costs and benefits?

<ESA_QUESTION_PKID_55>
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<ESA_QUESTION_PKID_55>

Q56 : 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>

Q57 : 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>