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:	Financial Express (FE)	
Disclosure of comments:	Please indicate if your comments should be treated as confidential:	Public
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Reference	**Comment**	
General Comments	FE fully supports the concept of a clear, concise document to provide retail investors with important pre-sale information about a product and to help with comparison between products with similar aims but different structures. However, the PRIIPs KID doesn't satisfy these criteria, as it fails to provide information in a way that is "accurate, fair, clear and not misleading" (EU/1286/2014 Art. 6.1). Much has been said about how misleading, unfair and unclear the performance scenarios are, and we say more about this below. In addition, the inconsistency between the PRIIPs KID SRI and the UCITS KIID SRRI, while using exactly the same visual, is misleading and unclear. The focus has	

	obviously been on the disclosure being accurate to the extent that it complies with the ESAs' interpretation of what is required and the formulae to provide it. We have responded to the questions below on the basis that there may be major changes to the KID following the full review of the PRIIPs Regulation, as per Art. 33 of EU/1286/2014. In an ideal world, multiple sets of changes would be avoided by waiting until after that review is concluded, but it would be wrong to continue with the KID in its current form for any longer than necessary. It would also be a retrograde step to require UCITS to adopt the significant deficiencies of PRIIPs KIDs as they stand. We therefore welcome this consultation and the opportunity to comment on proposed changes to the content and presentation of the PRIIPs KID. We also welcome the recommendation from the Economic and Monetary Affairs Committee of the European Parliament that the exemption for UCITS from the obligation to publish PRIIPs KIDs be extended by a further two years to the end of 2021.	
Q1	**Do you agree that information on past performance should be included in the KID where it is available?** In November 2016, Michael Holland, Managing Director of FE, wrote an open letter to the chairmen of the ESAs, in which he strongly supported the inclusion of past performance on PRIIPs KIDs. That letter proposed showing actual past performance alongside a suitable benchmark, where available, as an indication of the fund's performance against its objectives and said: "While this would not be an indicator of future returns and would not be displayed as such, it would be, as stated in [the joint letter on 13 October 2016 from EFAMA and Better Finance] an extremely valuable piece of factual information for investors in their investment decision". Our views on this	

	have not changed. Past performance is shown on UCITS KIIDs only where it is available and we agree that this should also be the case for PRIIPs KIIDs. An incomplete bar chart may itself be a useful visual indicator that the fund or share class has a short performance history.	
Q2	**Are there challenges to include past performance information for certain types of PRIIPs?** In the case of some products – structured products (Cat. 3) or those with a very short RHP (mostly Cat. 1) – either past performance is not available or showing it may not be of any benefit to retail customers. In the case of structured products, simulated past performance would show the data used in the bootstrapping exercise, so would reflect the forward-looking scenarios. In those cases, having a blank chart would be misleading, so there should be no past performance shown for Cat. 3 PRIIPs or Cat. 1 PRIIPs as defined in paragraph 4(b) of Annex II of the RTS, with explanatory text to that effect. This is not the same as showing a blank chart for any Cat. 2 PRIIPs with a track record that is too short for inclusion (see Q.1). In all cases, without other changes to the content of a KID, the three-page limit would cause difficulties, so a change to the Level 1 Regulations to permit use of the blank fourth page would be necessary, unless this is accompanied by significant changes to the current future performance scenarios.	
Q3	**Do you agree that it is appropriate for this information on past performance to be based on the approach currently used in the KII? If not, please explain your reasons and if an alternative presentation would be more appropriate and for which types of PRIIPs?**	

	Yes.	
Q4	**Do you think that information on simulated past performance should be included in the KID where actual past performance is not available? If not, please explain your reasons.** No. Please see our answers to Q.1 and Q.2, above.	
Q5	**If you think that information on simulated past performance should be included in the KID, what approach do you think should be used to simulate the past performance, and how should this be presented in the KID?**	
Q6	**Do you consider these amendments to the narrative explanations to be an improvement on the current performance scenario approach?** We believe the returns section needs a complete overhaul, but the CP proposes changes in advance of a full review of the PRIIPs Regulation. We are concerned that short-term changes will be applied at the end of 2019 and then changed again following the review. In any section of a document with a visual representation, it is expected (and intended) that attention will be drawn to that, rather than to any accompanying text, so any wording is unlikely to have much impact, as acknowledged in footnote 25 of the CP. Having said that, if the decision is for a more prominent statement, one similar to that for past performance alongside shorter explanations in bold type may help, but we do not agree that the text suggested in the CP is an improvement on the current situation. We don't believe that retail customers understand what is meant by "simulated future performance". Our suggestion is for	

	the two new sets of text to say: 1. Above the table: “Performance illustration”, followed by: “Market moves in future mean the actual returns may be very different from this illustration”. 2. Narrative below the table: “This table is an illustration of returns over the periods shown [based on past performance] and should not be treated as a guide to likely future performance. As long as a moderate scenario is shown in the table, it will be perceived as the ‘most likely’ scenario (although we have reservations about the alternatives, as explained in question 7), regardless of the text around it.	
Q7	**Do you have any comments on the analysis set out in this Section of other possible options to improve the future performance scenarios?** **Risk-free rate of return**: A similar option was proposed before the current version of the RTS was published. It was discarded because it takes no account of the different returns for different asset classes and allows no performance comparison between products, which is one of the purposes of a PRIIPs KID. This option actually shows the effect of costs and charges, which is already shown in the RIY table. If shown alongside past performance, it is more likely to confuse than assist retail customers, as past performance is extremely unlikely to show similar returns. As the risk-free rate varies between countries, KIDs may need to show different scenarios when distributing PRIIPs in different countries. Not only is this inconsistent with having identical documents when translated into different languages, but it could require multiple versions in the	

same language (eg for the UK and Ireland).

As there is a statistical link between volatility and long-term returns, one option would be for a prescribed gross rate of return for the moderate scenario, based on the level of the SRI. This would remove the over-optimistic returns shown after years of positive markets and over-pessimistic returns after poor markets. An example of this is:

SRI	Moderate scenario gross annual growth rate
1	1.5%
2	3%
3	5%
4	6.5%
5	7.5%
6	8.5%
7	9.0%

The downsides of this approach are (i) the moderate scenario would need to be recalculated in the event of a change to the SRI and (ii) the returns table would actually illustrate the effect of costs and charges at a given growth rate (as with using the risk free rate of return) as that is the only differentiator between product returns within the same SRI level.

Highlight the range of outcomes: Removing the moderate scenario would help to avoid retail customers assuming it to be the most likely return, but leaving a visual showing the favourable and stress scenarios would, in many cases, simply show a hugely positive and hugely negative

	return, which would be of no benefit. An illustration of the range of possible outcomes will often be skewed towards the favourable returns, and this is particularly true of a graphical illustration (the "funnel of doubt"). This would do nothing to remove the over-optimistic appearance of possible returns; the downside will in almost all cases show a loss of less than 100% of the investment, while the upside in the favourable scenario may be many times that, particularly for products with a long RHP, leaving the resultant "funnel" heavily skewed upwards. The scale used, whether prescribed or left to each manufacturer, will also be a major factor in the usefulness of this visual. **Extend the historical period used**: The longer the period of historical data, the more likely it is to capture a full market cycle and reduce the influence of periods of strong or weak returns. However, whatever term is chosen, it is still possible to reach the same result. Michael Holland's open letter to the ESA chairmen in November 2016 proposed the use of 10 years' historical prices on the basis that this would be more likely to encompass a full cycle, but the last two years have shown that even this may not be enough. The longer the historical period, the more likely it is that the data from a benchmark or proxy would be included in the calculations, leading to more products with the same benchmark showing a similar range of future returns, which would not show a genuine comparison between products.	
Q8	**Do you have any views on how the presentation of the performance scenarios could otherwise be improved?** To invest, a customer must believe there is at least a reasonably high probability of the product	

	rising in value over their chosen investment term. The past performance will indicate the range of annual returns over the previous (up to) ten years, so the additional information required is the maximum possible loss. Rather than showing a range of possible returns – from very negative to very positive – we therefore believe it would be more helpful to show the past performance, where applicable, with a statement of the maximum possible loss, such as: "By investing in this product, you could lose [all of your investment / more than you invested / up to £[X] on an investment of £10,000]".	
Q9	**Do you agree with the proposals described in this section?** **MRM for regular investments**: No comment, as we are not aware of this problem. **Products with an autocallable feature**: FE's solution is for Cat. 2 PRIIPs, so we have no comment on this. **Narrative for the SRI**: The two biggest problems with the SRI are (i) it looks exactly the same as the UCITS SRRI, while the thresholds between levels are very different, and (ii) it bases the risk of a product only on its historical price volatility. i. This means similar UCITS and PRIIPs can appear to have different levels of risk. This discrepancy can be easily rectified by adopting the same thresholds as for UCITS and extending the scale from 7 to 10 for those PRIIPs with higher levels of volatility than any UCITS (UCITS SRRI of 7 is for annualised volatility ≥25%, while PRIIPs SRI of 7 is for VEV >80%). It is not enough to say that this issue will disappear when UCITS need to publish PRIIPs KIDs, as there will be a recalibration of their risk levels, which, in many cases will make it seem that a fund has suddenly become "less risky". (In addition, recent announcements mean this	

discrepancy would be with us for another three years)

ii. The Association of Investment Companies (AIC) published a report on PRIIPs KIDs ("Burn Before Reading") in September 2018, in which they pointed out that Venture Capital Trusts have an average SRI of 3.4 (the lowest average SRI of any AIC sector), based entirely on their historical price moves, despite investing in "smaller, unquoted companies without a lengthy track record". Although VCTs are available on the secondary market with real-time prices, the NAV of the unquoted companies they invest in may be updated much less frequently.

Neither of these problems is caused by "infrequent but large changes" in value, which the CP blames, nor can they be addressed by text to describe other risks not adequately covered elsewhere, whether in 200 or 300 characters.

However, we have previously expressed concern over the limit to this free-text field, so increasing its length would allow groups to describe other risks in such a way that retail customers may understand them better. Less prescription over the wording used to describe any of the risks (subject to an overall character limit) would allow manufacturers to include text that is more relevant to their particular product.

Narrative for performance fees: We agree with the need to allow some flexibility in the narrative on performance fees, but question whether 100 characters would be enough in all cases (the text in square brackets in this section of the CP is itself more than 100 characters).

Growth assumption for RIY: If, as suggested in the CP, the moderate scenario is removed, there is no link between that and the RIY calculation. We have no strong views on whether the growth rate used should be set arbitrarily at 3% p.a. or any other rate (except that 3% significantly

	overstates the returns currently available on money market funds and could fall outside the favourable-stress scenario range) but we believe that, if a single rate is to be used for all products, 0% may be a better option, as readers would understand that the RIY is based on a value of €/£ 10,000. **Other minor amendments**: No comment	
Q10	**Do you have any comments on the proposed approaches in relation to the analysis and proposals in this section?** We believe ending the UCITS exemption before all the significant problems with PRIIPs KIDs have been resolved would make the situation worse, as the UCITS KIID has achieved traction in the market and is well understood. We strongly recommend that UCITS KIIDs should remain in place until the full review of the PRIIPs Regulation has been carried out and its conclusions have been accepted. So we welcome the reported cross-party agreement in ECON for an extension of the UCITS exemption to the end of 2021, which would fit with the expected time to complete the review and consult fully on any proposed changes. Art. 33 of Regulation EU/1286/2014 says “the review shall assess whether the transitional arrangements [for UCITS] shall be prolonged, or whether, following the identification of any necessary adjustments, the provisions on key investor information in Directive 2009/65/EC might be replaced by or considered equivalent to the key investor document under this Regulation”. Any plan to end the exemption for UCITS before the review reaches its conclusions could run the risk of being changed as a result of the review. The possibility of a UCITS needing to publish a PRIIPs KID for retail investors and a UCITS KIID for	

	professional investors would be completely unsatisfactory, as it would perpetuate the existence of contradictory documents for identical products, which is one of the criticisms against having both in circulation now. It would also increase the workload on fund management companies. As PRIIPs KIDs were introduced by the European Commission on the basis that retail customers need a single, consistent pre-sale disclosure document, why would professional investors also need to see a different document for UCITS only?	
Q11	**Do you have any comments on the preliminary assessment of costs and benefits?** It is clear from the wording of the two benefits of adding past performance, compared to the six costs (two of which say either no or limited implementation costs and two of which don't apply if only actual historical performance is shown), that the ESAs have reluctantly considered including this as a result of the widespread criticism of the misleading calculations of future performance scenarios. The cost of undue reliance on past performance by retail investors has been addressed many times in the past and has been addressed by the clear statement on all promotions and UCITS KIIDs. There are some questionable benefits that are repeated from investors' and manufacturers' standpoints (eg greater clarity would be a benefit for all, but is not two benefits). Under "use of the risk-free rate of return rather than historical prices to anchor future performance scenarios", the benefit is that this "s*hould reduce the risk that retail investors acquire unrealistic expectations*"; adding an additional benefit of "*PRIIP manufacturers can benefit from retail investors not having unrealistic expectations*" is unnecessary and overstates the benefits. These benefits are also countered by the cost of "*Information can be seen as less useful for retail investors*", so adopting this proposal could replace "unrealistic" information with "less	

	useful" information, which is equally misleading.	
Q12	**Are you able to provide information on the costs of including information on past performance for different types of PRIIPs?** We believe that past performance should be shown where it is available. There may be two reasons why it is not available: (i) the product has not yet built up a sufficiently long track record (eg Cat. 2 or 4 or Cat. 1 under para 4(c) of Annex II) or (ii) the product type is unsuitable to display past performance (eg Cat. 3 or most Cat. 1). In the first case, we believe it is right to show a blank past performance chart, similar to that on a UCITS KIID, while, in the second case, we do not believe any chart should be shown, as that would imply that the chart may be populated in future versions of the KID. We believe the costs of showing past performance in the first example above would consist of reformatting the KID to include a chart and obtaining the data to populate the chart. The main benefit would be to customers, who would see information they are used to taking into account when making their investment decisions.	
Q13	**Are there significant benefits or costs you are aware of that have not been addressed?** We are concerned that no assessment has been made of the costs of retaining both PRIIPs KIDs and UCITS KIIDs for UCITS managers, as explained in 4.3.1 of the CP and as in Q.10 above. The costs would be both financial and in respect of the danger of having contradictory documents available for the same funds.	