

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 Services User Group (FSUG)	
Disclosure of comments:	Please indicate if your comments should be treated as confidential:	Public
<p>Please follow the following instructions for filling in the template:</p> <ul style="list-style-type: none"> ⇒ 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 <u>empty</u>. ⇒ Please fill in your comment in the relevant row. If you have <u>no comment</u> on a question or a cell, leave the row <u>empty</u>. ⇒ Our IT tool does not allow processing of comments which do not refer to the specific numbers below. <p>Please send the completed template, in Word Format, to CP-18-005@eiopa.europa.eu</p> <p>Our IT tool does not allow processing of any other formats.</p>		
Reference	Comment	
General Comments	<div style="text-align: center;">  </div> <p>The Financial Services User Group (FSUG) is the expert group set up by the European Commission following the core objective "to secure high quality expert input to the Commission's financial services initiatives from representatives of financial services users and from individual financial services experts".</p>	

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As user representatives, the FSUG represents those market participants that were the addressees of the PRIIPs Regulation: The savers, insurance-holders and private investors and consumers. For them, the PRIIPs KID was designed in order to improve the transparency of the packaged products offered in the EU financial markets by establishing uniform and horizontal rules on transparency at EU level.

PRIIPs are at the core of the retail investment market. They cover a range of investment products that are marketed to retail investors which, taken together, make up a market in Europe worth up to €10 trillion. As PRIIPs cover a wide range of – per definition – structured products which can take a variety of legal forms that might involve multiple charges and which include different risk profiles, FSUG always stressed **the strong need for a simple, pre-contractual document that enables retail investors to reach well-informed investment decisions** by enabling them:

- to understand the product, including its risks, rewards and the effects of costs/charges
- to easily compare it to other products and
- to assess whether a certain product is the right one for his/her needs.

The FSUG has always been very supportive regarding the aim of the PRIIPs Regulation. It is the first financial EU rule set that was designed “horizontal” and introduced a KID for a wide range of retail investment products, including both non insurance-based and insurance-based products, in order to enable investors to

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understand and compare the key features and risks of the PRIIP (Regulation 1286/2014, Article 1) and by that enhance investor protection.

In that respect the FSUG since the very beginning of the process of designing the PRIIPs KIDs (See e.g. https://ec.europa.eu/info/sites/info/files/file_import/150212-response-kid-priips_en_0.pdf) pointed out that it considered it helpful to benefit from all the experience accumulated on the work done for the KIID for investment funds (UCITS IV Directive), and for its subsequent implementation by the industry.

Already in January 2016 we brought to the attention of the co-legislators and the Commission that the legal requirements planned at that time, especially to indicate the future performance of the product, could lead to misleading investor information (https://ec.europa.eu/info/sites/info/files/file_import/160119-fsug-letter-priips_en_0.pdf).

Since the PRIIPs Regulation has been in force from January this year, all stakeholders, including in particular the retail investors as the beneficiaries of the PRIIPs KID, have had negative experiences with the new document: In practice the PRIIPs KIDs in their current design do not fulfil the legal requirements to enhance understanding, comparability and transparency through short and concise information. On the contrary: The PRIIPs KIDs are simply misleading, incomprehensible and unusable.

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The FSUG therefore considers it very important and urgent to put an end to this undesirable situation in order to protect consumers and retail investors, and to bring about the necessary changes to the PRIIPs KID. **While we appreciate the ESA's efforts to address the PRIIPs KIDs existing shortcomings we are of the opinion that the suggested 'quick-fixes' will not replace the need to initiate as soon as possible the review of the entire Level 1 PRIIPs regulation,** as required by Art. 32 of said regulation which was to be finalized by December 2018. Furthermore, we note that the timetable of the consultation at hand, which is only four weeks, does not allow for a proper stakeholder consultation which is especially worrying as the regulatory technical standards (RTS) based thereupon will not be publicly consulted.

Given the sheer number of articles identified by the ESAs to be changed proves that the changes to the PRIIPs Delegated Act as well as the potential shift from the UCITS KIID to the PRIIP KID is no trivial matter, resulting in changes not being "targeted" but rather large in both size and complexity. Moreover, since a consumer testing of the proposed amendments will not be performed due to a lack of time, the FSUG finds it worrying that the hasty schedule does not allow stakeholders to scrutinise the final proposals in detail until before they are submitted to the European Parliament and Council for final endorsement.

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The FSUG believes there are serious problems in the PRIIPs framework, notable regarding the cost information, which are not addressed by the current consultation which only covers one of the shortcomings, namely performance scenarios by suggesting to introduce a past performance scenario.

The FSUG believes that the suggested inclusion of past performance information does not remove the challenges with the current performance scenarios. Moreover, displaying the information on past performance next to the information on the future performance scenarios (without addressing the future scenarios' methodologies issues) is not going to improve the situation of retail investors and other beneficiaries of the PRIIPs KID.

In fact, the ESAs propose to add a past performance scenario while keeping at least two of the artificial future performance scenarios.

We are already concerned that the ESAs do not propose to change the methodology of the future performance scenarios, meaning that the methodology will remain to be based on the last five years' performance only, thus remain misleading, remain overly optimistic for equity and bond products, remain unreliable and too short-term.

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The FSUG is furthermore concerned that the ESAs propose that for the cost calculation of the Reduction in Yield (RIY) computation be no longer based on the so-called “moderate” scenario, but on a one-size-fits-all 3% annual gross performance scenario. Given, for example, the current gross performance of money market funds (less than 1% p.a.) the RIY cost information on related PRIIPs would become highly misleading. Last but not least the proposed way forward will only be an interim one. This means that retail investors will again have to get used to another KID format. Given the large diversity of KIDs already existing in the market for various products, this will lead to further confusion among retail investors.

Next to our concerns with the shortcomings of the PRIIPs Regulation that have been addressed in the consultation paper we point to the fact that various other serious shortcomings of the PRIIPs KID have not been addressed at all in the consultation paper as these need to be fixed at Level 1.

Given that most of our concerns will not be addressed before the Level 1 PRIIPs review, and given the current transparency regime for UCITS has proven to be effective, the FSUG is strongly of the view that the current exemption of UCITS funds and certain AIFs from PRIIPs should be extended from 31/12/2019 for another two years.

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As this level 1 review is legally required, is urgent and should not be postponed beyond 2019, we believe that an interim targeted review (quick fix) of the level 2 regulation in the way it is currently proposed is not desirable but rather detrimental for the users of the PRIIPs KID.

One essential aim of the PRIIPs Regulation is to provide consumers with concise information that allows them to easily compare products, before making their investment decision. The parallel use of PRIIPs and UCITS information documents makes it more difficult for retail investors to compare the key characteristics of different investment products. It is critical through the Level 1 PRIIPs review to tackle the current shortcomings identified with the PRIIPs legislation. However, in the long-term, it is important to find a consistent approach to investor information for all PRIIPs products (including UCITS funds), based also on adequate consumer testing. Following the conclusion of the Level 1 PRIIPs review, the FSUG believes that the UCITS exemption should expire and retail investors should be presented with a single Key Information Document (KID) based on the PRIIPs Regulation.

The PRIIPs regulation is without a purpose unless the key investor information is provided in a format that is understandable, encourages retail consumers to read the information and enables them to compare all PRIIPs products (including UCITS funds).

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