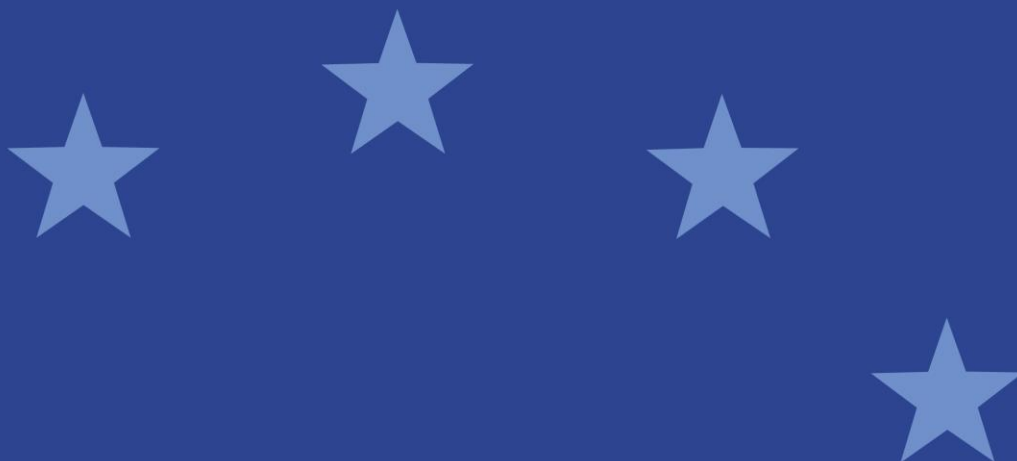




JOINT COMMITTEE OF THE EUROPEAN
SUPERVISORY AUTHORITIES

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



16 October 2019

Date: 16 October 2019
ESMA 30-201-535



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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 2017¹ (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 1286/2014² (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:

- Q1** Insert your responses to the questions in the Consultation Paper in the present response form.
- Q2** 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.
- Q3** 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.
- Q4** 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.



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- Q5** 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**.
- Q6** 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) 2018/1725³. 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.



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General information about respondent

Name of the company / organisation	BVI Bundesverband Investment und Asset Management e.V.
Activity	Other Financial service providers
Are you representing an association?	<input checked="" type="checkbox"/>
Country/Region	Germany

Introduction

Please make your introductory comments below, if any:

<ESA_COMMENT_PKID_1>

BVI¹ thanks the ESAs for the opportunity to contribute its views to the ongoing work on improving the PRIIPs KID. Given that the scope of the current review allows only for technical changes at Level 2, it is our overall view that the proposals subject to consultation do not go far enough in terms of addressing the fundamental issues of the PRIIPs framework. Some of the proposed solutions appear like a desperate attempt to “mask” the current inherent flaws, often by introducing further complexity. This applies in particular to the approaches proposed for calculating probabilistic performance scenarios.

We believe that especially the problems with performance scenarios cannot be solved by simple technical adjustments at Level 2. A proper Level 1 review is absolutely necessary in order to reconsider some of the basic assumptions of the PRIIPs KID that currently prevent an effective enhancement of the information quality. These are in particular (1) the assumption that “appropriate” performance scenarios imply probabilistic messages about future performance and (2) the understanding that comparability of KID presentation must prevail in any event. Indeed it seems that in the current PRIIPs concept, comparability is more important than the aim of providing potential investors with clear, fair and not misleading information. It is therefore essential that a Level 1 review seeks to achieve an optimal balance between these two aims and considers more closely what information is relevant to retail investors for each different type of PRIIP.

We also infer from the ESAs’ comments that the European Commission has not yet started its review of the Level 1 legislation, as required by Article 33 of the PRIIPs Regulation. This situation is not acceptable. In particular, the current ESAs’ review of only the Level 2 measures cannot replace the wider review of the PRIIPs Regulation as required by European law. The persisting lack of action on the part of the EU Commission would possibly prevent a revised and well-functioning PRIIPs KID being in place when UCITS and other retail funds are meant to switch from the current UCITS KIID to the PRIIP KID at the beginning of 2022. This would be very unfortunate. The co-legislators have clearly foreseen a different sequencing of events: first, review of the Level 1 regulation including evaluation of its appropriateness for funds (scheduled to be finalised by the end of 2019) and second, replacement of the UCITS KIID by end 2021. Moreover, we have identified further issues with the Level 1 requirements that need to be properly solved before that date (cf. our reply to Q5).

As regards the Level 2 amendments subject to the current consultation, we would like to convey to the ESAs the following major messages:

- **Performance scenarios:** We strongly disagree with the new proposed dividend yield methodology for probabilistic performance scenarios. This approach would lead to a substantial paradigm shift since it requires the calculation of the growth factor on a look-through basis and thus, could only be imple-



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mented with considerable efforts and undue costs without a reasonable benefit in terms of expected outcomes. We could support a new method (in combination with past performance information) based on the growth rate for different types of investment funds as long as a look-through approach is not required and the growth rate will be only estimated on fund level. We also see added value in adjusting the calculation methodology by introducing a sharpe ratio approach. According to a testing by our members, introducing sharpe ratio could have the effect of smoothing the outcome of performance calculations.

- **Past performance:** We insist on our long-standing demand (which is shared by investor representatives) that past performance should be the only performance indicator for linear products in line with the current UCITS KIID framework. A switch to past performance as a stand-alone approach to performance information could be allowed for linear PRIIPs on the basis of the current Level 1 text that refers solely to “appropriate performance scenarios” which does not necessarily imply future scenarios. However, as long as the interpretation of the Level 1 requirements remains unchanged, we see at least the need to clarify the proposed scope of application for presentation of past performance. Moreover, we disagree with incorporating the contentious provisions of the ESMA Q&As on the application of the UCITS Directive with regard to reference to a benchmark in the new draft amendments to the PRIIPs RTS.
- **Cost presentation:** It is essential that the modified cost disclosure in the PRIIPs KID remains comprehensible for the average investor and focuses on the most relevant cost figures. To this respect, we propose a simplified cost table in our answer to Q40. The cost amounts shown in this table should be calculated based on the assumption that the performance of the product just covers the costs (zero net performance). Such modification of the underlying assumption would align the cost disclosures in the one-year column with the ex-ante cost disclosures under MiFID II, thus creating a crucial link for retail investors. Moreover, we deem it very important to clarify details of the cost calculations for PRIIPs investing in real assets and to take into account only costs that are linked to the management performance.
- **Transaction costs:** We welcome the ESAs’ willingness to improve the calculation methodology for transaction costs. As regards the details of the proposed solutions, we see some merit in both options subject to further improvements. In particular, we agree with the general approach taken for transactions in OTC derivatives and real assets. Whereas for the latter, it is correct to account for explicit costs only, the wording needs to be refined in order to properly reflect depreciation practices from fund accounting. On a less positive note, we once again reject the treatment of market movement between the time of order transmission and order execution as a cost. We also see no value in a derogation to a simplified approach based on quantitative thresholds. Rather, we are in favour of allowing for an alternative approach to transaction cost calculations subject to certain preconditions.

¹ BVI represents the interests of the German fund industry at national and international level. The association promotes sensible regulation of the fund business as well as fair competition vis-à-vis policy makers and regulators. Asset Managers act as trustees in the sole interest of the investor and are subject to strict regulation. Funds match funding investors and the capital demands of companies and governments, thus fulfilling an important macro-economic function. BVI's 111 members manage assets more than 3 trillion euros for retail investors, insurance companies, pension and retirement schemes, banks, churches and foundations. With a share of 22%, Germany represents the largest fund market in the EU. BVI's ID number in the EU Transparency Register is 96816064173-47. For more information, please visit www.bvi.de/en.<ESA_COMMENT_PKID_1>



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

<ESA_QUESTION_PKID_1>

We generally support rules that enable digital solutions, in keeping with the changing information habits of European investors. However, the current PRIIPs framework is based on the concept of a printed document. Even its title contains the word “document”, which highlights the intention of a hard copy document being handed over to investors.

Digital solutions in the PRIIPs context, however, must mean more than simply presenting an investor with a pdf instead of a printed document. Presenting information digitally will require profound changes to the current approach. This can be addressed only through a fundamental Level 1 review and will involve reassessing of some underlying concepts of the PRIIPs KID. For example, how should one deal with the current 3-page limit if the information is presented via interactive digital solutions? How could data be made available, aggregated and stored? Can further details be directly linked or shown if of particular interest to the investor? How interactive can the key information be?

In this respect, we draw attention to the EBA’s recently issued report on digital solutions in relation to providing documents to clients.²

² <https://eba.europa.eu/eba-publishes-opinion-disclosure-consumers-buying-financial-services-through-digital-channels>

<ESA_QUESTION_PKID_1>

- **: 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>

While generally supporting digital solutions, we wonder what the ESAs would consider an “IT tool”. Would this mean that product manufacturers would have to upload machine-readable KIDs (e.g. in CSV format) onto their websites alongside their pdf-KIDs?

The creation of technical standards is no trivial task and should be fully thought through by the ESAs. The current standards developed by the industry to ensure that information in relation to multi-option PRIIPs can be transmitted from fund managers to insurance companies (so the latter can produce PRIIPs KIDs for multi-option PRIIPs) are set up as technology-neutral and allow the use of different data formats.³

³ Cf. <https://www.bvi.de/en/services/samples-and-working-aids/european-priips-template-ept-comfort-european-priips-template-cept/>

<ESA_QUESTION_PKID_2>

- **: 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 favour revised PRIIPs KIDs to become applicable across the industry at the beginning of 2022, as this would coincide with the inclusion of UCITS and retail AIFs that currently produce the UCITS KIID.



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From an investor protection viewpoint, it would be preferable if amendments were implemented at the beginning of January 2022, as it is important to keep the number of changes for retail investors to a bare minimum. From an operational perspective, one must also consider that the proposed amendments to the Level 2 Regulation will not be approved before the second half of 2020 at the earliest. Thus, January 2022 may anyway leave market participants with little more than one year to implement all changes. It is essential that PRIIPs providers are given enough time for implementation, which will include, among other things, fundamental changes to the underlying IT infrastructures.

<ESA_QUESTION_PKID_3>

- **: 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>

A gradual approach to introducing amendments is not helpful, since it would result in practice in two implementation projects and two necessary updates of KIDs within a short timeframe. As replied to Q3, our preference is that all changes should be implemented by all PRIIPs at the beginning of 2022.

<ESA_QUESTION_PKID_4>

- **: 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>

Given the limited scope of this consultation, there are no further issues we would like to raise with the ESAs. However, we definitely see the need to complement the amendments at Level 2 discussed in the consultation paper at hand with at least targeted modifications of the Level 1 framework. Such modifications should in our view pertain to the following:

- Article 5 (1): The manufacturer's obligation to publish PRIIPs KIDs on its website should relate to products made publicly available or at least launched for public distribution, but not affect customised products set up according to the preferences of selected investors.
- Article 6 (4): The maximum length of the PRIIPs KID should be reassessed in view of the ESAs' final advice on presentation of past performance in addition to performance scenarios and the new requirements for cost tables.
- Art. 13 (4): The obligation to provide PRIIPs KIDs in the context of regular saving plans should be aligned with the current supervisory practice under the UCITS framework (cf. our reply to Q45 below).

In more general terms, we deem it very important to reconsider some of the assumptions underlying the current PRIIPs framework and to reflect those more clearly in the Level 1 text (cf. our introductory remarks above).

<ESA_QUESTION_PKID_5>

- **: Do you have comments on the modifications to the presentation of future performance scenarios being considered? Should other factors or changes be considered?**



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<ESA_QUESTION_PKID_6>

In general, consumer testing is a cornerstone for "Better Regulation". Regulatory changes should be based on thorough and in-depth consumer testing processes. Only a proper full-scale consumer testing exercise by the European Commission would have allowed insight into the functioning of the current PRIIPs KID and provide important understandings for both technical improvements and the more fundamental Level 1 review.

With that in mind, we consider the value of the current consumer testing exercise highly questionable. The ESAs themselves explain that "within the timeframe of the current review of the PRIIPs Delegated Regulation, it will not be possible to test all aspects of the KID"⁴. We understand that only presentation of (certain) performance scenarios is being tested with consumers and that such presentation is detached from the material changes to the methodology discussed by the ESAs. Unfortunately, none of the substantial changes to the presentation of costs is subject to any consumer testing. Due to these limitations, we can hardly see how the consumer testing can help the ESAs in developing their recommendations for improving the PRIIPs KIDs.

⁴ ESAs consultation paper, page 12

<ESA_QUESTION_PKID_6>

- **: 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 support the ESAs' approach eliminating intermediate performance scenarios from the performance section of the KID.

With regard to the new proposal to also show the minimum investment return, we would like to request the ESAs to clarify in the legal text that only the 'minimum guaranteed' investment return is meant. That would be in line with the Performance Scenario Example provided on page 67 of the consultation paper with a clarification to the minimum guaranteed return. For all other investment funds, it would be not possible to show the minimum investment return that depends on the performance of the product (in opposition to a minimum value commitment agreed with the investors). We therefore suggest amending the wording of paragraph 3 of Annex IV of the draft amendments to the PRIIPs Delegated Regulation as follows:

*"3. The minimum **guaranteed** investment return shall also be shown. This case shall not take into account the situation where the manufacturer or party bound to make, directly or indirectly, relevant payments to the investor is not able to pay."*

<ESA_QUESTION_PKID_7>

- **: 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>

We support the ESAs' approach eliminating the scenario from the presentation of future performance scenarios. However, if a stress scenario is included in the presentation, the current methodology should be maintained. We do not see any need to modify the methodology.

<ESA_QUESTION_PKID_8>



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

<ESA_QUESTION_PKID_9>

We strongly disagree with the new proposed dividend yield methodology for probabilistic performance scenarios. Such a new method for investment funds will lead to a substantial paradigm shift as long as the growth factor must be calculated on a look-through basis. In these cases, the product manufacturer would be required to estimate the growth factor for each asset or components in which the investment fund is invested and in such a new way as it is proposed in the consultation paper. That new method can only be implemented with considerable efforts and undue costs for manufactures of investment funds. Such a burden would be reasonable where the effort involved is appropriate in relation to the benefits of the outcome of a performance scenario based on the new method. However, we cannot identify a reasonable benefit. The quality of performance scenarios will not be improved by a probabilistic approach on a look-through basis.

Because of the high administrative burden, it is impossible for our members to estimate the growth factor on a look-through basis within the short consultation period. This applies all the more as the consultation paper is silent on how to apply the method to other asset categories such as derivatives, non-listed investments or hedging instruments. There will be difficulties to establish and gather (update) information about risk premia (central organisation determining figures valid for all countries, country specific). Therefore, we cannot confirm that the new method will not give rise to misleading estimates of future performance. However, we expect a high error rate in the calculation process that will be probably based, in addition, on different methods used by manufactures of investment funds. This applies all the more as investment funds also invest in other units of investment funds. In particular in such cases, the look-through approach will be lead to an administrative burden of data exchanges between the manufactures of investment funds. The comparability of the outcome will be not ensured.

Moreover, the new proposals for the calculation of the expected growth rate of certain assets such as equity refer to indices for which the manufacturer of the PRIIPs KIDs needs to pay licence fees or where the information needed relates to single instrument level or at least to some kind of bucketing. This leads to a significant increase in operational complexity such as how to deal with instruments for which no sufficient data are available, or which cannot be properly classified. For investment funds which more or less follow a benchmark, data on benchmark level might be used, but reasonable data for other funds (such as absolute return or total return funds) are more complex to obtain. Moreover, we see practical problems in re-using data based on licence agreements. Specifically, as long as a (re-)use of index data in regulatory documents is not free of licence, fee requirements needs to be insured. At the current stage, we cannot see further work that regulators discourage unreasonable license and fee requests from quasi-monopolistic index providers for their indices, indicators or other services. Moreover, we expect an increase of such fees because of new legal requirements for the (re-)use of the indices. Therefore, any new method with reference to indices based on licencing fees will be extremely expensive for the PRIIPs manufacturer, in particular for companies issuing and managing investment funds.

<ESA_QUESTION_PKID_9>

- : **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>



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As described in **Q9**, we strongly disagree with the new proposed dividend yield methodology based on a look-through approach. The advantage of the current model for investment funds without a look-through approach is that it is easy to apply because the only required data is price time series data, but of course the drift is highly pro-cyclical, and we have seen many examples with unreasonable results (either too positive or too negative drift). From this perspective, an approach which is based on fund data only without look-through on asset classes etc. (i.e. fund performance time series), but which does not have the disadvantages of the current methodology would be most feasible. In that case, the degree of granularity should be defined by regulators to ensure comparability; it should not be too granular to minimise complexity and data issues.

In general, we could support a new method (in combination with past performance information) based on the growth rate for different types of investment funds as long as a look-through approach is not required and the growth rate will be only estimated on fund level. We therefore propose the following approaches:

- a) **Additional categorisation of investment funds:** Investment funds as Category 2 PRIIPs could be classified in different types depending, for example, on their asset categories in which they invest or their geographical distribution. However, we see the need to establish clear and simple criteria for such a new categorisation of investment fund types. It could be helpful to use the already existent categorisation based on the method used by national central banks⁵. In any case, no added value in using average measures of dividend yield or credit-quality is visible because this would be also based on a look-through approach. Moreover, dividend yields are already part of the pricing of the investment fund's units.
- b) **Setting maximum growth rates:** Depending of the categorisation of the investment funds, the growth rate on funds level could be based on a table given by the ESAs for growth rates for different jurisdictions as described under section 5.7 of the consultation paper.

⁵ For example, the German central bank is using an approach based on the German Fondskategorien-Richtlinie established by BaFin (cf. footnote 1 of page 640, available under the following link: <https://www.bundesbank.de/resource/blob/604672/6a0622833a8e555441de09529e68a28a/mL/stats01-12-statistikueber-investmentvermoegegen-data.pdf>. Other national central banks use their own approach, cf. page 7: https://ec.europa.eu/eurostat/ramon/statmanuals/files/ECB_investment_fund_statistics_2017_en.pdf.
<ESA_QUESTION_PKID_10>

- : **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 answer to **Q9**. We strongly disagree with the new proposed dividend yield methodology based on a look-through approach.
<ESA_QUESTION_PKID_11>

- : **How should share buyback rates be estimated?**

<ESA_QUESTION_PKID_12>
We refer to our answer to **Q9**. We strongly disagree with the new proposed dividend yield methodology based on a look-through approach.
<ESA_QUESTION_PKID_12>



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- : 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>

The new approach for money-market funds also contains an additional data point and needs to be properly sourced to include in the overall methodology. Moreover, the new approach is silent on what will be used in case of non-EURO money market funds. However, we refer to our suggestion under Q10. Such a simple solution based on setting maximum growth rates could also apply for money market funds.

<ESA_QUESTION_PKID_13>

- : 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>

We strongly disagree with an approach to estimate the implied volatility either by using options or by looking at the implied volatility of the components of the investment fund. The simplest and best method for measuring volatility of investment funds is the use of historical prices. Fund volatility is easy to calculate and also basis for other regulatory requirements such as the calculation of the value at risk approach for UCITS.

For investment funds, options will be not available to estimate the implied volatility surface. Moreover, there would be a need to construct an estimate of the volatility of these PRIIPs by looking at the implied volatility of the assets in which the fund is invested. Assumed that options prices would be available for equities, equities would be only one asset class for investment funds. Our members would need to estimate the implied volatility of all other asset classes (we refer to our answer to Q9). This will lead, in any case, to a more complex and cost intensive model of asset prices movements. Furthermore, receiving access to option prices and all other data needed to estimate the implied volatility by a look-through approach will create significant additional costs. This applies all the more as under **paragraph 14** of Annex IV of the draft amendments to the PRIIPs Delegated Regulation a look-through approach would apply for 'all assets' and not for the prices of investment funds. We therefore request the ESAs to clarify the approach for measuring the volatility of investment funds in such a way that historical prices of investment funds should be used without a look-through.

<ESA_QUESTION_PKID_14>

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

<ESA_QUESTION_PKID_15>

If the ESAs will provide for a new methodology based on a calculation with (supposedly) better outcomes, we do not see any merit in an additional compensation mechanism to address potential methodological faults. This applies all the more as the proposed compensatory mechanism has been discussed for cases where the current calculation approach would be maintained. In these cases, the practical challenge would be to decide which results of maximum/minimum return observed in the past (based on daily/weekly/monthly data or aggregated data on a yearly basis?) should be used as results of the maximum/minimum return for future scenarios. Maintaining the current calculation method for the future scenarios would also mean that only the last five years past performances would be part of the future performances over the RHP - cut/mixed with the best/worst past performance based on a longer period (here:



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ten years UCITS period). We doubt whether that approach would be a material improvement in terms of explaining the outcome to the investors.

The ESAs' proposal to include 'compensatory mechanisms' highlights that there are fundamental issues in trying to project future outcomes with any sort of accuracy. This essential flaw cannot be masked by making the underlying methodology more and more complicated. Thus, having to consider additional "compensatory mechanisms for unforeseen methodological faults", such as past performance, would simply be overkill, as it would make an already far more complicated methodology even more complex and daunting. The original aim of this exercise (i.e. the disclosure of performance scenarios) was to strike a reasonable balance between retail investors being able to understand potential return outcomes while at the same time not making calculation too resource-intensive. The suggested approach seems becoming more and more academic in nature and losing sight of this important balance.

<ESA_QUESTION_PKID_15>

- **: 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>

We refer to our answer to **Q15**. We do not see merit in implementation of compensatory mechanism.

<ESA_QUESTION_PKID_16>

- **: 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>

We refer to our answer to **Q15**. We do not see merit in implementation of compensatory mechanism.

<ESA_QUESTION_PKID_17>

- **: 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 refer to our answer to **Q10**. We could support a new method (in combination with past performance information) based on the growth rate for different types of investment funds as long as a look-through approach is not required and the growth rate will be only estimated on fund level such as setting maximum growth rates.

<ESA_QUESTION_PKID_18>

- **: 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>

We refer to our answer to **Q10**. We could support a new method (in combination with past performance information) based on the growth rate for different types of investment funds as long as a look-through approach is not required and the growth rate will be only estimated on fund level such as setting maximum growth rates.



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<ESA_QUESTION_PKID_19>

- **: 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>

Finding only one calculation method for future performance scenarios that covers all products will not be possible and is unrealistic. This is also shown by the new proposal for the dividend yield method that could work for equities but not for investment funds which invest in different types of assets. Therefore, we are in favour to propose different approaches for each type of product which are fit and proper for their specificities.

Investment funds as Category 2 PRIIPs could be classified in different types depending, for example, on their asset categories in which they invest or their geographical distribution. However, we see the need to establish clear and simple criteria for such a new categorisation of investment fund types. In any case, no added value in using average measures of dividend yield or credit-quality is visible because this would be also based on a look-through approach.

<ESA_QUESTION_PKID_20>

- **: 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>

Firstly, the consultation paper does not provide a clear and transparent description on how to calculate these alternative approaches for investment funds. Therefore, it is not possible to test these approaches and to give a reasonable statement on that. We would welcome a workshop with all stakeholders and the ESAs (including the NCAs) to analyse and calculate all methods on the table. This applies all the more as the example given for a broad based large-cap German equity fund showing the dividend yield method in the consultation paper (page 22) is just provided with the results but without details on the invested assets that makes it impossible to check the outcome. This applies all the more as it seems that this fund did not have a underperformance other such a long period because the actual performance shown on the Y graphs is over 'Zero' between August 1979 until August 2017. This seems very unrealistic.

Secondly, it seems that the new proposed calculation methods might be more complex and burdensome for investment funds as the current approach (for instance the Dividend Yield approach with look through and the beta approach that is, in fact, empirically calculated but also more complex in implementation as other solutions).

Thirdly, being aware that all solutions (without exemptions) will not be able to provide a calculation method that will be able to shoe the future performance, we would support a new method (in combination with past performance information) based on the growth rate for different types of investment funds as long as a look-through approach is not required and the growth rate will be only estimated on fund level.

In addition to the approach for setting maximum growth rates, we discussed with our members the **Sharpe Ratio approach**. The current methodology tends to be pro-cyclic. Advantages of Sharpe Ratio methodology are:



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- Reduces cyclical and stabilises expected return calculations
- Tight relation between risk and return, focus on the reward on risk
- Easy to implement due to calculation on funds level

The expected growth rate could be based on a Sharpe Ratio (SR) as an absolute performance indicator which calculates the excess return of the fund's portfolio in relation to a risk-neutral interest rate pro unit of volatility. The following formula should be used:

$$SR = \frac{Rp \text{ (Return of the portfolio, e.g. average return of the last five years)} - Rf \text{ (risk-neutral interest rate)}}{\sigma_p \text{ (Volatility of the portfolio, historical, eg. five years)}}$$

General example for what a shape ratio means: The risk-neutral money market has a return of 0.5 per cent and the investment fund has a return of 10 per cent, there is an excess return of 9.5 per cent which has to be considered in relation to the volatility of the portfolio. Is there a difference between two investment funds in return and volatility, then the investment fund with the higher Sharpe ratio will be preferred.

Our suggestion is based on the transformation of that formula to "Rp" such as follows:

$$\text{Expected Return (Rp)} = SR \text{ (Sharpe Ratio, predefined by fixed parameters)} * \sigma_p \text{ (Volatility of the portfolio based on five years)} + Rf \text{ (risk-neutral interest rate)}$$

That Rp amount would be integrated in the Cornish-Fisher approximation in the meaning of Annex IV No 9 and Annex II No 12 as the "M1" amount. Therefore, there would be no need to amend the formula as such. Only the figure 'M1' would be substituted.

(a) The unfavourable scenario:

$$\text{Exp} [M1 * N + \sigma \sqrt{N} * (-1,28 + 0,107 * \mu_1 / \sqrt{N} + 0,0724 * \mu_2 / N - 0,0611 * \mu_1^2 / N) - 0,5 \sigma^2 N]$$

(b) The moderate scenario:

$$\text{Exp} [M1 * N - \sigma \mu_1 / 6 - 0,5 \sigma^2 N]$$

(c) The favourable scenario:

$$\text{Exp} [M1 * N + \sigma \sqrt{N} * (1,28 + 0,107 * \mu_1 / \sqrt{N} - 0,0724 * \mu_2 / N + 0,0611 * \mu_1^2 / N) - 0,5 \sigma^2 N]$$

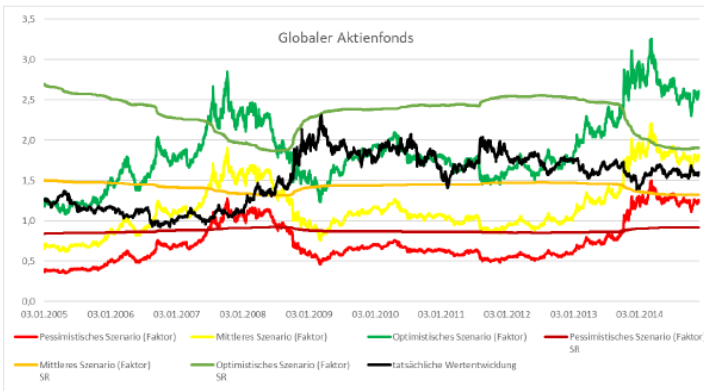
The approach would work under the following conditions:

- The ESAs provide a SR (for example 0.5 for all or different types of investment funds).
- Rp is calculated on funds level basis
- Risk free rate (rf) is '0' due to simplification

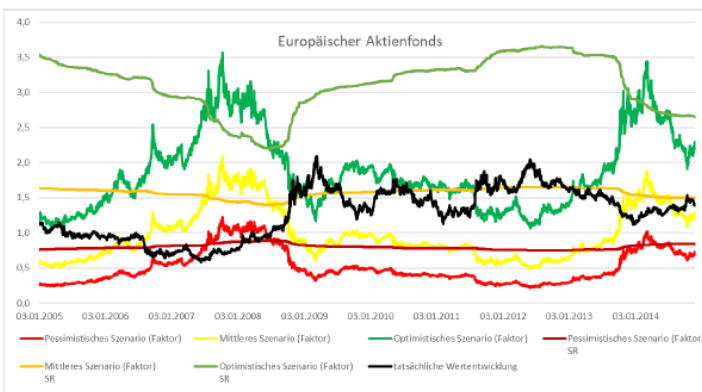
Based on these assumptions, one of our members has tested the Sharpe Ratio approach for four different types of funds: Global equity, European equity, European fixed income, Global multi asset. The following diagrams compare expected returns of current and proposed Sharpe Ratio methodology and realized returns.

- Performance Scenarios current methodology (1. 1.2005 – 30.11.2014): Green, yellow, red line
- Performance Scenarios Sharpe Ratio methodology (1. 1.2005 – 30.11.2014): Light green, orange, dark red line
- Historical returns 5 years ahead; 1. 1.2010 – 30.11.2019: Black line
- Holding period is 5 years
- Comparability of expected and realized returns
- Example: Expected return 3. 1.2005 corresponding with realized return 3. 1.2010

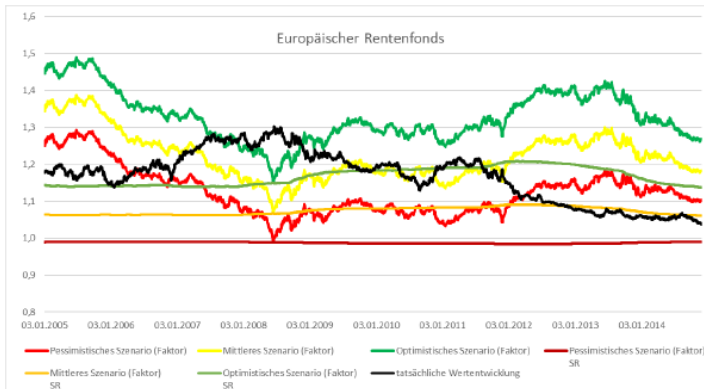
▪ **Global Equity: Realised Return always within the limits of the SR scenarios**



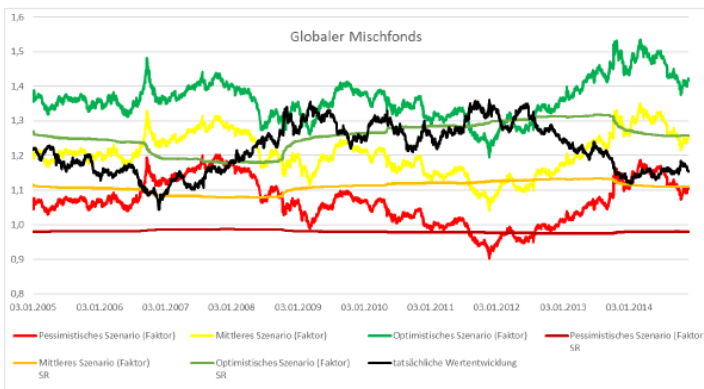
▪ **European Equity: Most of the time close to the neutral SR scenario**



- **European Fixed Income: Given SR of 0,5 seems to low. Realised return is often higher than expected.**



▪ **Global Multi Asset: A few times more than expected above the optimistic SR scenario**



Therefore, there could be an effect that will minimise the outcome of the expected performance. The problem is that there is a need for a predefined Sharpe Ratio. It could also be helpful to use different sharpe ratios for different types of investment funds and based on different time tables for volatilities such as five, ten or 20 years. There are smoothing effects over the time, so that a predefined Sharpe Ratio should be based on a long-term volatility. Moreover, there would be need for special solutions for MMF and real estate funds.

<ESA_QUESTION_PKID_21>

- : 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>

At the current stage, we do not see other approaches for calculation methods for future performance scenarios.



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However, a switch to past performance as a stand-alone approach to performance information could be allowed for linear PRIIPs on the basis of the current Level 1 text. Article 8(3)(d)(iii) PRIIPs Regulation refers to disclosure of "appropriate performance scenarios" which does not necessarily imply future scenarios. Rather, the reference to 'appropriate scenarios' gives discretion to the ESAs to develop adequate concepts for different categories of PRIIPs. However, should the Commission and the ESAs feel unable to exploit this opportunity, we would suggest amendments to the Level 1 Regulation explicitly allowing for the sole presentation of past performance for linear products in the PRIIPs KID which should be presented a part of the PRIIPs review.

<ESA_QUESTION_PKID_22>

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

<ESA_QUESTION_PKID_23>

No comments.

<ESA_QUESTION_PKID_23>

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

<ESA_QUESTION_PKID_24>

No comments.

<ESA_QUESTION_PKID_24>

- **: 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>

No comments.

<ESA_QUESTION_PKID_25>

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

<ESA_QUESTION_PKID_26>

In general, we have always argued in favour of including past performance in the KID as the only reliable performance-related information for investment funds. Therefore, we welcome in principle the willingness to consider inclusion of past performance information in the PRIIPs KID. Future performance scenarios are not suitable for linear products, especially when such scenarios are derived from past performance data. This applies all the more as the new probabilistic approach also refers to historical prices of the PRIIP.

Nonetheless, since the ESAs envisage presentation of past performance only in addition to future performance scenarios, we fear that inclusion of past performance might not work as a corrective factor for investor information. On the contrary, since performance scenarios are already based on the price development of the previous five years, complementary information on past performance might basically duplicate and further endorse the simulated performance prospects, thereby hindering that investors receive



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balanced information. To put it another way: since the future performance scenarios for most products are broadly positive due to the overall excellent market development in the last five years, investors will not be further impressed by the information on past performance. Considering the market upturn persisting since now ten years, inclusion of past performance which is an objective and non-questionable information in itself in addition to performance scenarios must not be expected to change the general perception by retail investors.

For PRIIPs with performance directly linked to their underlying assets, such as non-structured UCITS and AIFs (“linear products”), future performance scenarios impede the PRIIPs KID’s objective of describing investment products in a fair, clear and not misleading way, as such scenarios will necessarily incorporate a certain market view, which could be seen by many retail investors as a firm promise of return. The disclosure of past performance is well-tested for UCITS. It clearly is not a guarantee for the future, but gives an indication of how the fund has operated in the past vis-à-vis a relevant benchmark. It is factually correct and cannot be gamed because it is presented in a standardised way.

Therefore, we maintain that future performance scenarios are not suitable for linear products, especially when such scenarios are derived from past performance data. Presentation of past performance data in the UCITS KIID needs to be supplemented by a prominent warning about the limited relevance of past performance highlighting that it is not a reliable indicator of future results. For this reason, we insist on our long-standing demand (which is shared by investor representatives) that past performance should be the only performance indicator for linear products in line with the current UCITS KIID framework.

A switch to past performance as a stand-alone approach to performance information could be allowed for linear PRIIPs on the basis of the current Level 1 text. Article 8(3)(d)(iii) PRIIPs Regulation refers to disclosure of “appropriate performance scenarios” which does not necessarily imply future scenarios. Rather, the reference to “appropriate scenarios” gives discretion to the ESAs to develop adequate concepts for different categories of PRIIPs. However, should the Commission and the ESAs feel unable to exploit this opportunity, we would suggest amendments to the Level 1 Regulation explicitly allowing for the sole presentation of past performance for linear products in the PRIIPs KID which should be presented a part of the PRIIPs review

However, as long as the new proposal for a probabilistic approach must be introduced in combination with the inclusion of past performance information of investment funds in the PRIIPs KID we would like to request ESMA to clarify the proposed scope of the new RTS for the following cases:

Limitation to Category 2 PRIIPs: As we understand the introduction part of the consultation paper (section 7) the inclusion of past performance should be limited to Category 2 PRIIPs. However, Article 3(2) of the draft amendments to the PRIIPs Delegated Regulation (section 12.4 of the consultation paper) refers to all linear PRIIPs that are AIF or UCITS. In our view, it must be clarified that only AIF or UCITS which are linear PRIIPs and meet the requirements for Category 2 PRIIPs as set out in point 5 of Annex II should be required to include past performance.

- **Exemptions for closed-end AIF:** Closed-ended AIF as defined in Article 1(3) of the Delegated Regulation (EU) No 694/2014 should not be required to include past performances in the PRIIPs KID. For closed-ended AIF, there is no relevant ‘track record’ to use for past performance during the distribution stage. This applies all the more as these products are designed to perform returns at a later stage over the holding period. Therefore, showing past performance would be misleading because of the high initial costs at the beginning of the distribution stage. Moreover, the calculation method for past

performance figures provided in **paragraph 2 of Annex IX (new)** of the draft amendments to the PRIIPs Delegated Regulation is based on the approach that investors are able to redeem their units/shares of the fund during the holding period and that any distributable income of the funds should be treated as it would be reinvested. This calculation method does not work for closed-ended AIF where investors are not able to repurchase or redeem their units or shares of the AIF prior to the commencement of its liquidation phase or wind-down.

- **Exemptions for structured UCITS:** Structured UCITS as defined in Article 36(1) subparagraph 2 of the UCITS Delegated Regulation (EU) 583/2011 which provide investors, at certain predetermined dates, with algorithm-based payoffs that are linked to the performance, or to the realisation of price changes or other conditions, of financial assets, indices or reference portfolios or UCITS with similar features are currently not required to include past performances in the UCITS KII. We therefore propose to maintain that approach and to clarify that in the definition under paragraph 1 of Annex IX (new).
- **Transitional period for UCITS:** The co-legislators agreed to extend the date in Article 32 of the PRIIPs Regulation until the end of 2021. As things stand, from 1 January 2022, UCITS will be required to prepare a PRIIPs KID and UCITS KII. In view of this, the European Commission is expected to table legislative proposals in due course to address the requirements that would apply to UCITS from 1 January 2022 onwards (cf. our response to Q44 below). Therefore, this timetable should be taken into consideration in drafting the new Article 3 of the RTS that refers to UCITS. In any case, a transitional period should be involved for UCITS as long as the new RTS will take into force before the 1 January 2022.

Consequently, we suggest the following amendments to the draft RTS as proposed by the ESAs:

- **Inclusion of information on past performance (section 12.4 of the consultation paper):**

New recital to be added:

Examples of situations where the benchmark index plays a role in the management of the UCITS or AIF may include the explicit or implicit definition of the portfolio's composition or the UCITS' or AIF's performance objectives and measures.

Paragraph 1 of Article 3 to be amended as follows and new paragraph 6 added:

Article 3

'What are the risks and what could I get in return?' section

1. In the section entitled 'What are the risks and what could I get in return?' of the key information document, PRIIP manufacturers shall apply the methodology for the presentation of risk as set out in Annex II, include the technical aspects for the presentation of the summary risk indicator as set out in Annex III and comply with the technical guidance, the formats and the methodology for the presentation of performance scenarios, as set out in Annexes IV and V **as well as with the methodology and the format for the presentation of past performance, as set out in Annexes VIII and IX and X.**

[...]

6. For linear PRIIPs that are AIFs or UCITS or unit-linked insurance-based investment products **as defined in Annex IX (1)**, past performance shall be included in the key information document as set out in Annexes IX and X.



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New Annex IX to be added:

ANNEX IX (new)

METHODOLOGY FOR THE PRESENTATION OF PAST PERFORMANCE

Definitions

1. For the purpose of determining past performance, the following definitions shall apply:

- (a) "AIF" as referred to in Article 3(6) means an AIF as defined in point (a) of Article 4(1) of Directive 2011/61/EU which are linear PRIIPs and which meet the requirements for Category 2 PRIIPs as set out in point 5 of Annex II, except for closed-ended AIF as referred to in Article 1(3) of Delegated Regulation (EU) No 694/2014.
- (b) "UCITS" means a UCITS as defined in Article 1(2) of Directive 2009/65/EC which are linear PRIIPs and which meet the requirements for Category 2 PRIIPs as set out in point 5 of Annex II, except for structured UCITS which provide investors, at certain predetermined dates, with algorithm-based pay-offs that are linked to the performance, or to the realisation of price changes or other conditions, of financial assets, indices or reference portfolios or UCITS with similar features.
- (c) Other linear PRIIPs as referred to in Article 3(6) are PRIIPs that meet the requirements for Category 2 PRIIPs as set out in point 5 of Annex II, except for the requirement on the availability of historical prices.
- (d) Internal funds as referred to in Article 14 (e) are internal funds provided by an insurance undertaking as defined in the second subparagraph of Article 132 (3) of Directive 2009/138/EC which are underlying investment options as referred to in Articles 11, 12 and 13. Linear internal Funds are internal funds that meet the requirements for Category 2 as set out in point 5 of Annex II with respect to the exposure to the price of underlying assets.

[...]

New Annex X to be added:

ANNEX X (new)

PRESENTATION OF PAST PERFORMANCE

[...]

Use of a benchmark alongside the past performance (Based on Article 18 of UCITS Regulation 583/2010 unless otherwise indicated)

8. Where the "What is this product?" section of the key information document makes reference to a benchmark, a bar showing the performance of that benchmark shall be included in the chart alongside each bar showing past performance of the AIF or the UCITS.
9. This applies for AIFs and UCITS tracking a benchmark as well as for those managed in reference to a benchmark, which is where the benchmark index plays a role in the management of the UCITS/AIFs. (new provision)
10. For AIFs or UCITS which do not have past performance data over the required five or 10 years, the benchmark shall not be shown for years in which the AIF or UCITS did not exist.

11. If the AIF or UCITS is managed against a benchmark, as referred to in paragraph 9, the narrative in point 5 of this Annex shall be supplemented as follows: “This chart can help you to assess how the fund has been managed in the past and compare it to its benchmark.” (new provision)

12. In order to allow for a clear understanding of the differences between past performance and performance scenarios the following narrative shall be used: “This bar chart shows the fund’s performance as the percentage loss or gain per year over the last [x] years”. *(new provision)*

Presentation of the bar chart (Based on Annex III of the UCITS Regulation 583/2010)

13. The bar chart presenting past performance shall comply with the following criteria:

- (a) the scale of the Y-axis of the bar chart shall be linear, not logarithmic;
- (b) the scale shall be adapted to the span of the bars shown and shall not compress ~~(e)~~ the bars so as to make fluctuations in returns harder to distinguish;
- ~~(c)~~ the X-axis shall be set at the level of 0 % performance;
- (d) a label shall be added to each bar indicating the return in percentage that was achieved;
- (e) past performance figures shall be rounded to one decimal place.

[...]

Use of ‘simulated’ data for past performance (Based on Article 19 of the UCITS Regulation 583/2010)

16. In all cases where performance has been ~~calculated~~ *simulated* in accordance with point 23 of Annex IX, there shall be prominent disclosure on the bar chart that the performance has been simulated.

[...]

<ESA_QUESTION_PKID_26>

- **: 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>

With regard to including past performances in the PRIIPs KID, we refer to our previous question which would remain unchanged.

However, in case of involving both past performance and performance scenarios, we are concerned that it would not be possible to meet the requirement in Article 6(4) of the PRIIPs Regulation that limits the length of the KID to 3 pages of A4. We therefore would request the ESAs to recommend a specific change to the PRIIPs Regulation; in particular, to increase the page limit to four pages. This applies all the more as more space will be also needed for upcoming pre-contractual disclosures around mandated in sustainable finance regulation. We recall that the Commission is already required under Article 8(4) of the PRIIPs Regulation to develop Delegated Acts in order to disclose ‘specific environmental and social objectives’. This work was put on hold due to work on the sustainable finance action plan. Eventually, such disclosures will make their way into the PRIIPs KID and thus require further space to be set aside.

<ESA_QUESTION_PKID_27>



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- : **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>

We do not agree with disclosing past performance in the form of an average and insist on preserving the existing UCITS KIID methodology. One of the essential benefits of past performance is to showcase a PRIIP's past volatility in order to highlight the importance of investing with a long-term horizon.

Moreover, as we understand the proposal under section 12.5 of the consultation paper showing the average performance over different time periods such as 1 year, 3 year, 5 year and 10 years must be combined with showing the performance of the benchmark. This would lead to the situation that there would be a need to calculate the performance of the benchmark also for these different time periods that would involve much more administrative burden and, in cases of license fees for external index providers, also increase the costs for creating the PRIIPs KID.

<ESA_QUESTION_PKID_28>

- : **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>

We do not agree to supplement the display of past performance with additional statements such as the presentation of costs which are not included in the net asset value. This applies all the more as Article 44(4) letter f) of the MiFID Delegated Regulation (EU) 2017/565 already requires to disclose the effect of commissions, fees or other charges where the indication is based on gross performances.

<ESA_QUESTION_PKID_29>

- : **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>

It could be helpful to add a narrative in order to explain the relationship between past performance and future performance scenarios. However, the new provision in **paragraph 5 of Annex X (new)** of the amended draft of the PRIIPs Delegated Regulation already includes a warning about the limited value as a guide to future performance in such a way that past performance is not a reliable indicator of future performances, markets could develop very differently in the future and that it can help to assess how the fund has been managed in the past. This warning appears sufficient.

<ESA_QUESTION_PKID_30>

- : **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 Directive⁴?**

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



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<ESA_QUESTION_PKID_31>

We strongly disagree with including the provisions of the ESMA Q&As on the application of the UCITS Directive with regard to reference to a benchmark in the new draft amendments to the PRIIPs Delegated Regulation. **We therefore request the ESAs to delete the new provisions in paragraph 9 and 11 of Annex X (new).**

First, it is important to note ESMA's interpretation of the requirements in its March 2019 review of the UCITS Q&As is highly contentious. More specifically, as per the answer to Question 8b thereof, ESMA offers its interpretation of whether a given investment approach "includes or implies a reference to a benchmark" by referring to a non-exhaustive list of examples. According to the answer, such reference is assumed whenever a "benchmark index plays a role in the management of the UCITS" with the effect that this benchmark index needs to be disclosed in the KIID (including its past performance).

Although ESMA recognises that "the onus is on the management company to determine whether a UCITS is in practice managed according to a benchmark index", the subsequent non-exhaustive list of examples suggests that ESMA interprets such reference in a very broad manner. Among these examples are disparate uses of benchmarks by a UCITS management company, ranging from portfolio construction to the calculation of performance fees, additionally including uses of indicators to set internal risk limits, remunerate individual staff, in contracts with third parties, etc. Few of these uses, however, are material to the actual pursuit and delivery of the UCITS investment objective.

Second, the fact that an index is generically "playing a role" in the management of a UCITS is not sufficient to categorise the management of the fund as benchmark-dependent. Hence there is a need in the PRIIPs KID context to be more specific on the function a chosen benchmark serves, as some functions may be completely unrelated to the attainment of the investment objectives. Failing this, it would be difficult to see how any UCITS would not be a fund managed with reference to a benchmark and would thereby introduce a bias against actively-managed strategies.

Third, in terms of presenting UCITS investors with information that is "fair, clear and not misleading", we observe that only those benchmarks that are relevant to the implementation of a given investment strategy deserve to be disclosed in the future PRIIPs KID's past performance section, alongside that of the fund. From a strict interpretation of the answer to Question 8b in the current UCITS Q&As, investors would be left attempting to make sense of the performance of multiple indices represented in the relative bar chart, most of which would not be relevant to inform investors on how the UCITS has actually performed.⁶ The resulting confusion for investors from bloating the PRIIPs KID with needless or non-material information would thus conflict with management companies' fiduciary obligations when disclosing product performance to a retail investor. Lastly, it would also challenge the logic of a PRIIPs KID as a short and user-friendly document.

Therefore, we believe that the transition from a UCITS KIID to a PRIIPs KID will be an ultimate opportunity for ESMA to review its current interpretation of Article 7(1) letter d. and related KIID Regulation requirements, in a manner that is consistent with the management company's fiduciary duty and geared to enhance the quality of information disclosed to investors.

⁶ As an example, one could consider an absolute return UCITS fund, where the portfolio manager selects some 10%-15% of the portfolio using an emerging market equity index. Such "bottom-up" portfolio construction technique allows such index to merely guide a relatively small part of the portfolio's composition. Consequently, the index's performance is not sufficiently representative of that of the whole portfolio (which can be diversified across other asset classes, derivatives, cash, etc.) for the index to be disclosed in the "Past Performance" section of the future PRIIPs KID. The same considerations would apply to other "internal" uses of indices, not solely related to portfolio construction.



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<ESA_QUESTION_PKID_31>

- : **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>

We disagree with the assumption in Article 3(6) of the draft amendments to the PRIIPs Delegated Regulation (section 12.4 of the consultation paper) that unit-linked insurance-based investment products should be qualified as 'linear products' in general and should include past performances. In our view, unit-linked insurance-based investment products with participation features are not linear products because their performance is not directly linked to their underlying assets.

<ESA_QUESTION_PKID_32>

- : **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>

First and foremost, it is essential that the modified cost disclosure in the PRIIPs KID remains comprehensible for the average investor. All options presented by the ESAs expand the cost presentation to a lot more data points than foreseen by the current PRIIPs standard (the preferred option 3 proposes to encompass 32 cost figures/percentages compared to currently 12 data points to be shown under annex VII of the PRIIPs RTS). We are concerned that such inflated cost disclosure will rather overstrain investors instead of guiding them to reach informed investment decisions. The ESAs should therefore strive for reducing the number of specific cost elements to be displayed in the PRIIPs KID and focusing on the most relevant figures from the investor's point of view.

Against this background, we suggest displaying costs over time only for a one-year and recommended holding period (RHP) and generally deleting the middle column equivalent to costs over the current ½ RHP. This would reduce the amount of information being presented to retail investors by one third without depriving investors from essential new insights. The costs of investment in many PRIIPs are very high at the beginning (1 year) and smoothing over the recommended holding period; investors should be able to deduct the effect of early exit between those dates from the remaining bits of information.

Furthermore, RHP vary immensely between different types of PRIIPs, thus there is little sense in trying to strive for complete comparability. It is more important to provide meaningful information. Thus, the standardised 1-year period is of crucial importance, as it gives investors a sense of the immediate entry costs and potential early exit costs.

Should the ESAs nonetheless decide to keep the intermediate time period in the cost tables, we would be in favour of (1) using a fixed holding period in order to facilitate comparability in line with our arguments above and (2) applying such intermediate cost disclosures only to long-term PRIIPs with RHP > 10 years.

<ESA_QUESTION_PKID_33>

- : **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>



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As explained in our reply to **Q33** above, we are in favour of deleting the cost disclosure over the intermediate time period for all PRIIPs in order to simplify the cost tables and enhance their use for investors. However, should the ESAs insist on keeping cost disclosures over the intermediate term, we would recommend (1) using a fixed holding period in order to facilitate comparability in line with our arguments above and (2) applying such intermediate cost disclosures only to long-term PRIIPs with RHP > 10 years.
<ESA_QUESTION_PKID_34>

- : **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>

Comparability between products with different RHPs will best be ensured by presenting annual average cost figures that should be in any case included in the PRIIPs cost disclosures. Information on total accumulated costs could be added if it does not lead to an information overload and is easy to understand. We prefer displaying total costs as the sum of the individual cost items as suggested for options 2 to 4.
<ESA_QUESTION_PKID_35>

- : **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>

We strongly support the ESAs' intentions to align PRIIPs cost figures with MiFID II disclosures. Due to the vast majority of funds being distributed in a MiFID II environment, it is absolutely crucial that investors receive consistent cost disclosures at the point of sale. Such cost disclosures will comprise both the PRIIPs KIDs and the ex-ante information prepared by the distributor. Hence, it is essential that the figures on product costs presented in both disclosures interrelate in a consistent way and provide investors with a meaningful overview of costs related to a specific investment service.

This being said, we do not see the objective of MiFID II alignment being effectively realised in the proposed options. In particular, options 2 to 4 require that all cost elements be calculated on the basis of the moderate performance scenario that is generally not relevant for MiFID II disclosures. The impact of the moderate scenario leads to distorted cost figures that are of no use for MiFID II calculations. Only option 1 might potentially achieve consistency with MiFID II for products qualifying as PRIIPs. However, since this option implies entirely different calculations for PRIIPs and IBIPs, it violates the principle of comparability and will probably not be acceptable for policy reasons.

Under MiFID II, illustrations of the impact of costs on returns are generally based on the assumption that the annual return each year will cover the relevant costs (meaning that the value of the investment at the end of each year is equal to the initial investment amount). This assumption could also be used instead of the moderate performance scenario for calculating product costs for the PRIIPs KIDs. This modification of the calculation approach would be easy to implement and in fact, could be evolved on the basis of the current provision in annex VI para. 71 c) of the PRIIPs RTS that stipulate a standardised performance assumption for funds not yet subject to the PRIIPs Regulation. Specifically, the indication of 3 % should be replaced by the following wording:

- (c) ...the performance shall be **assumed to offset all costs for the relevant period of calculation.**



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Moreover, while alignment with MiFID II is particularly relevant for funds, structured products and other PRIIPs qualifying as financial instruments, it might make sense to stipulate such performance assumption for cost calculations by all PRIIPs in order to warrant comparability of cost disclosures.

<ESA_QUESTION_PKID_36>

- : **In this context, are there PRIIPs for which both performance fees and carried interests are applied?**

<ESA_QUESTION_PKID_37>

We are not aware of any PRIIPs applying both performance fees and carried interests.

<ESA_QUESTION_PKID_37>

- : **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>

We entirely agree with the analysis concerning the lack of clarity as regards cost calculations for real estate funds and other PRIIPs investing in real assets. The current situation is highly concerning since the persisting lack of clarity under PRIIPs also affects cost calculations provided to distributors for the purpose of MiFID II ex-ante disclosures. This means that investors are being informed about costs of comparable products that have been calculated based on different terms. Products might appear cheaper just because they do not account for certain cost elements in their calculations that are included by others. This outcome is clearly unsatisfactory in terms of effective investor protection, since investors have no insights in the details of underlying calculations and need to rely on their advisors for receiving further explanations.

Therefore, we consider it **a matter of urgency to provide further clarification** with respect to the following two considerations that are essential for ongoing cost calculations for real asset PRIIPs:

1. To what extent shall management fees and other costs incurred in connection with property holdings (or holdings of other real assets) as underlying investments in a PRIIP, e.g. operating and maintenance costs, be included in the calculation of ongoing (recurring) costs at the product level?

Funds investing in real assets are required to include payments to providers of property management and similar services in the calculation of recurring costs under para. 5(b)(vi) of annex VI. The reasoning behind this requirements should be that property management forms part of the functions generally assigned to the fund manager under annex I para. 2 c) of AIFMD that can be provided by third parties for a fee.

Other expenses incurred in connection with property holdings (or holdings of other real assets) such as operating costs and maintenance costs, however, should not be relevant for the purpose of ongoing cost calculation. Non-apportionable operating costs such as incidental expenses (including payments for water and waste disposal, road cleaning, other cleaning services, energy supply, real estate tax and insurance coverage) and maintenance costs (including maintenance work and inspection performance, renovation and repair measures) are incurred by any person holding real estate or other real assets. They are not specific to the management of investment funds nor related to property management or similar services. By way of comparison, costs incurred in the operations of stock corporations are clearly not to be taken into account when calculating recurring cost figures for PRIIPs investing in equities or having equities as



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underlyings. Such operating costs have an impact on the market value of the relevant stocks, but are not included in the cost calculations. In order to ensure comparability of cost information to investors, the same approach should apply to funds investing in real assets. If the basis for cost calculation were different e.g. for equity and real estate funds (by including costs incurred at the level of individual assets in the latter case), this would delude prospective investors and create an unlevel playing field discriminating real asset investments at the point of sale.

2. Do "financing costs related to borrowing" under para. 5(h) of annex VI only relate to lending fees potentially charged by banks or also extend to interest payments in the course of regular long-term financing of individual assets?

Recurring interest payments at asset level which are an intrinsic part of a PRIIP's investment strategy should not be viewed as a cost. Debt financing of real assets serves the purpose of optimising the return on equity with a view to enhancing investors' performance. In relation to real estate or other real assets, interest payments are thus inherent to any economically viable investment. They are not specific to the management of investment funds or other PRIIPs and should not be taken into account in the recurring cost calculation. Moreover, a meaningful cost disclosure should enable investors to determine the costs of managing a specific PRIIP as an extra cost in comparison to direct investments in the relevant assets. If PRIIP management costs were to be mingled together with costs inherent to direct investments e.g. in real estate, investors would not be able to make meaningful comparisons of management cost-efficiency across products. On balance, qualifying regular interest payments on asset financing as costs would undermine the economic purpose of debt financing and be detrimental to the comparability of different investment products for retail clients under a cost perspective.

While clarification of these aspects is crucial in order to align the understanding of costs for real asset PRIIPs and to provide for comparable cost disclosures to investors, such clarification must not necessarily entail amendments to the PRIIPs Delegated Regulation. In our view, it should be sufficient to provide for further guidance in this respect by means of Q&As at Level 3. On a related note, however, it would be helpful to rectify the wording in para. 5(h) of annex VI. In our view, consideration of financing costs should not depend on whether financing has been provided by a related or a third party. Consequently, the addition in brackets should be deleted.

<ESA_QUESTION_PKID_38>

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

<ESA_QUESTION_PKID_39>

As explained in our reply to **Q33** above, we are generally concerned by the increased complexity of the cost tables. All options presented by the ESAs expand the cost presentation to a lot more data points than foreseen by the current PRIIPs standard (the preferred option 3 proposes to encompass 32 cost figures/percentages compared to currently 12 data points to be shown under annex VII of the PRIIPs RTS). In order to avoid an information overload for retail investors, the ESAs should strive for reducing the number of specific cost elements and focus on the most relevant figures from the investor's point of view that need to be presented in the PRIIPs KID. Our suggestion for a simplified cost presentation can be found in our response to **Q40**.

<ESA_QUESTION_PKID_39>

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

<ESA_QUESTION_PKID_40>

In our view, cost disclosures in the PRIIPs KID can be significantly improved and simplified by adopting the following changes:

- Combining the information in the currently two cost tables into one cost table.
- Deleting cost information over the intermediate period (currently half RHP) in order to reduce the amount of information presented,
- Replacing the moderate scenario in the RIY calculations with the assumption that the annual return each year will cover the relevant costs (meaning that the value of the investment at the end of each year is equal to the initial investment amount, i.e. there is a zero net performance). Such modification of the underlying assumption would align the cost disclosures in the one-year column with the ex-ante cost disclosures under MiFID II, thus creating a crucial link for retail investors.
- Improving the language around the individual cost elements.

The new single cost table would look as follows:

Investment [EUR 10 000]				
This table shows the impact on return per year				
<i>For illustrative purposes, we have assumed that the product has a net zero performance.</i>				
		If you cash in after [1] year	If you cash in [at the end of the recommended holding period]	What are they?
		€ [...]	€ [...]	Total costs
		[...] %	[...] %	Impact on return (RIY) per year
One-off costs	Entry costs	[...] %	[...] %	The impact of the costs you pay when entering your investment. [This is the most you will pay, and you could pay less.]
	Exit costs	[...] %	[...] %	The impact of the costs of exiting your investment.
Ongoing costs	Ongoing costs	[...] %	[...] %	The impact of the costs that we take each year for managing your investments.
	Portfolio transaction costs	[...] %	[...] %	The impact of us paying any commission or fee to any intermediary in order to buy or sell underlying investments within the product.
Incidental costs	Performance fees	[...] %	[...] %	The impact of the performance fee. We take these from your investment if [insert a brief explanation of the conditions under which performance fees are charged with a maximum of 100 characters in plain language].
	Carried interest	[...] %	[...] %	The impact of carried interests. We take these when the investment has [performed better than x%]. [A pay-



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				ment of y% of the final return will take place subsequently to the exit of the investment.]
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<ESA_QUESTION_PKID_40>

- : **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>

We are not convinced that the proposed changes to the presentation of the impact of costs on the return in percentage terms (i.e. including a reduction in return before and after costs) are of benefit for investors. Firstly, they involve additional two lines of cost information with potentially up to six percentage figures that might distract investors and deter them from engaging with further cost details. Secondly, the concept of "return per year before costs" is prone to misunderstanding since it implies that returns on investments could be achieved without paying any costs, including transaction costs. The result over the RHP would be a "super gross" figure (i.e. net returns without any costs) that might tail retail investors into believing that returns are for free. Therefore, we are in favour of deleting the underlying calculations and presenting only the result as "reduction in return" figure (cf. our suggestion for cost presentation in our answer to Q40 above).

<ESA_QUESTION_PKID_41>

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

<ESA_QUESTION_PKID_42>

We have no further comments other than those presented in our answers to Q39 to 42.

<ESA_QUESTION_PKID_42>

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

<ESA_QUESTION_PKID_43>

Since there no specific questions relating to the ESAs' proposals on modifications of the transaction cost methodology, we will use our reply to Q43 to provide you with our extensive feedback on the proposed options.

Generally speaking, both options entail clear improvements compared to the current methodology. However, on the basis of the market experience up to date, we believe that the wording in each option needs further refinement and punctual corrections in order to reflect the following considerations:

- We agree that that implicit transaction costs are relevant and should be included. However, **we once again reject the treatment of market movement between the time of order transmission and order execution as a cost.**
- We agree with the general approach taken for transactions in OTC transactions (although further details need to be improved).



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- We welcome the approach taken for transactions in real assets which includes only explicit costs. The wording needs to be further refined in order to properly reflect potential depreciation practices at the product level.
- We agree that the methodology should be proportionate. Nonetheless, we see no benefit in allowing for derogation to a simplified approach in case of 250 transactions over a three-year period. This would apply only to products conducting less than 84 transactions per year. Such threshold does not consider transactions due to in- and outflows in open-ended funds and thus disadvantages them compared to closed-ended products. In any case, quantitative thresholds linked to the trading activity are not helpful for funds. They might set wrong incentives for fund managers to stop their trading activity in case it comes close to the threshold – even if this were against the best interest of the investors – as the operational consequences for switching between different cost methodologies would be enormous. Therefore we are in favour of allowing an alternative approach to transaction cost calculations subject to certain preconditions as proposed by the ESAs.
- We do not support setting a general floor on implicit transaction costs rather than consequently eliminating all fundamental flaws of the methodology.

On the basis of these principles, we suggest the following adaptation of either option for calculating transaction costs to be decided upon by the ESAs:

12.7 Revised transaction costs methodology (amendments to Annex VI points 7 to 23)

12.7.1 Option 1 – adjustments to the current arrival price methodology

Points 7 to 23 of Annex VI to be amended as follows:

Calculation of specific types of costs of investments funds

Transaction costs

7. Transaction costs shall be calculated on an annualised basis, based on an average of the **aggregate** transaction costs incurred by the PRIIP over the previous three years. Where the PRIIP has been operating for less than three years, transaction costs shall be calculated using the methodology set out in point ~~25 24~~ of this Annex.
8. The aggregate transaction costs for a PRIIP shall be calculated as the sum of the transaction costs as calculated in accordance with points ~~9 to 29 9 to 23~~ of this Annex in the base currency of the PRIIP for all individual transactions undertaken by the PRIIP in the specified period. This sum shall be converted into a percentage by dividing by the average net assets of the PRIIP over the same period.
- ~~9. Where implicit transaction costs are negative, a minimum of explicit transaction costs shall be disclosed.~~
10. When calculating the transaction costs incurred by the PRIIP over the previous three years, actual transaction costs ~~shall must~~ be calculated using the methodology described in points ~~13 to 25 12 to 18~~ of this Annex for investments in the following instruments:
 - (a) transferable securities as defined by Article 2 of Commission Directive 2007/16/EC³⁷;
 - (b) other instruments that there are frequent opportunities to dispose of, redeem, or otherwise realise at prices that are publicly available to market participants and that are either market prices

Kommentiert [MK1]: This should be deleted as it is wrong to pretend negatives don't arise when overstated costs are deemed acceptable.

or prices made available, or validated, by valuation systems independent of the issuer.

11. Estimates of transaction costs using the methodology described below in points ~~24 to 26~~ ~~19 to 20~~ of this Annex ~~shall~~ ~~must~~ be used for investments in other instruments or assets.

Treatment of anti-dilution mechanisms

12. Where a PRIIP has a pricing mechanism that offsets the impact of dilution from transactions in the PRIIP itself, the amount of benefit accruing to the ongoing holders of the PRIIP from anti-dilution mechanisms may be deducted from the transaction costs incurred within the PRIIP using the following methodology:
- (c) the monetary amount of any anti-dilution levy, or other payment in connection with a transaction in the PRIIP itself, that is paid to the PRIIP may be subtracted from the total transaction costs
 - (d) the benefit to the PRIIP of issuing units (or otherwise enabling investment in the PRIIP) at a price other than the mid price, or of cancelling units (or otherwise enabling redemption of funds from the PRIIP) at a price other than the mid price, provided that the PRIIP itself receives the benefit, shall be calculated as follows and may be subtracted from the total transaction costs:
 - (i) the difference between the price of units issued and the mid price, multiplied by the net number of units issued;
 - (ii) the difference between the price of units cancelled and the mid-price, multiplied by the net number of units cancelled.

Actual transaction costs

13. Explicit costs include costs and charges incurred by the PRIIP, and paid out of investor's financial investment in the PRIIP, in order to acquire or dispose of the underlying assets of the PRIIP, such as but not limited to commissions paid to brokers or other intermediaries, stamp duty or market taxes, contract fees and execution fees for OTC derivatives, ~~legal advisers for real estate transactions, clearing fees and booking fees charged by the custodian in other assets,~~ where relevant.
14. Explicit costs shall be calculated as the sum of costs incurred by the PRIIP over the previous three years, for all individual transactions undertaken by the PRIIP and in the base currency of the PRIIP, averaged over one year. This sum shall be converted into a percentage by dividing by the average net assets of the PRIIP over the same period.
15. The actual transaction costs for each transaction shall be calculated on the following basis:
- (e) for each purchase undertaken by the PRIIP, the price of the instrument at the time the purchase order is transmitted to another person for execution (the purchase 'arrival price') shall be subtracted from the net realised execution price of the transaction. The resulting value shall be multiplied by the number of units purchased;
 - (f) for each sale undertaken by the PRIIP, the net realised execution price of the transaction shall be subtracted from the price of the instrument at the time the order to sell is transmitted to another person for execution (the sale 'arrival price'). The resulting value shall be multiplied by the number of units sold.

Kommentiert [MK2]: This is not a transaction cost because it is not a cost necessarily incurred as a result of transacting (it is incurred as a consequence of employing a custodian). It is included in ongoing costs as per point 5(a)(iv) of annex VI of the RTS.

Kommentiert [MK3]: These should be deleted as a consequence of deleting point 9 (because explicit costs as a floor are then not needed).

16. The net realised execution price shall be determined as the price at which the transaction is executed, including all charges, commissions, taxes and other payments (such as anti-dilution levies) associated with the transaction, either directly or indirectly, where those payments are made from the assets of the PRIIP.
17. The arrival price shall be determined as the mid-market price of the investment at the time when the order to transact is ~~transmitted to another person. For orders that are transacted on a day that is not the day that the order was originally transmitted to another person, the arrival price shall be determined as the opening price of the investment on the day of the transaction or, where the opening price is not available, the previous closing price. Where a price is not available at the time when the order to transact is transmitted to another person (due to the order initiated outside market opening hours or in over-the-counter markets where there is no transparency of intra-day prices for example), the arrival price shall be determined as the most recently available price on the day of the transaction or, where such a recent price is not available, as the opening price on the day of the transaction or, where the opening price is not available, the previous closing price. Where an order is executed without being transmitted to another person, the arrival price shall be determined as the mid-market price of the investment at the time when the transaction was executed.~~ For orders which are executed in several transactions, the transaction costs may be calculated either for each individual execution, or using the volume weighted average mid-market price of the instrument during the period of execution as the arrival price, or by calculating the transaction cost of the first or last execution, as appropriate given the characteristics of the order and of the instrument and the timeframe of execution of the order.
18. Where information about the time when the order ~~is executed to transact is transmitted to another person~~ is not available (or not available to a sufficient level of accuracy), or where information about the mid-market price at that time is not available, it is permissible to calculate transaction cost as described in point 20. ~~to use as the arrival price the opening price of the investment on the day of the transaction or, where the opening price is not available, the previous closing price.~~ When calculating transaction costs using data prior to 31 December 2017, intra-day prices may be considered as not available.
19. Costs associated with transactions undertaken by PRIIPs and concerning financial instruments that fall within one of the categories referred to in items 4 to 10 of Section C of Annex I to Directive 2014/65/EU shall be calculated in the following way:
- (g) for instruments that are standardised and where there is regular trading in the instrument itself (for example an index future on a major equity index), transaction costs shall be calculated with reference to the instrument itself. The arrival price shall be determined as the mid-price of the instrument;
 - (h) for linear instruments that are customised, and where there is no price transparency or regular trading in the instrument itself, transaction costs shall be calculated with reference to the underlying asset(s). The arrival price shall be calculated based on the price(s) of the underlying assets, using appropriate weightings if there is more than one underlying asset. Where the cost of transacting in the instrument is materially higher than the cost of transacting in the underlying asset, this must be reflected in the transaction cost calculation;
 - (i) for non-linear instruments, it is permissible to calculate the transaction costs as the difference between the price paid or received for the instruments and the fair value of the instrument, on the basis described in points 36 to 46 of this Annex.
- ~~20. In calculating the costs associated with foreign exchange, the arrival price must reflect a reasonable es-~~

Kommentiert [MK4]: In order to eliminate the impact of market movement on transaction cost calculations, the timestamp of arrival price should be moved to the time of order execution.

Kommentiert [MK5]: Sounds like a very reasonable proposal, just tried to avoid acronyms .

Kommentiert [MK6]: For orders executed in several consecutive transactions, further guidance for practical handling of calculations should be provided

estimate of the consolidated price, and must not simply be the price available from a single counterparty or foreign exchange platform, even if an agreement exists to undertake all foreign exchange transactions with a single counterparty.

20. By way of derogation from points 13-19 of this Annex for transactions executed on an over-the-counter basis, the actual transaction costs shall be calculated in the following way:

(a) Where a transaction is executed after bid prices and offer prices have been obtained from more than one potential counterparty, the arrival price shall be taken to be:

(i) If the best bid price is below the best offer price, the mid-point between the best bid price and best offer price;

(ii) If the best bid price is higher than the best offer price, the best bid price in the case of a sale or the best offer price in the case of a purchase.

(b) Where a transaction is executed without both bid prices and offer prices having been obtained, the transaction cost shall be calculated by multiplying the number of units transacted by half the value of the spread between the bid price and the offer price of the instrument. The value of this spread shall be calculated on the following basis:

(i) Where available, from a composite of live market bid/offer quotes; or

(ii) Where live market quotes are not available by reference, to spreads obtained for either previous transactions in assets bearing similar characteristics (e.g. duration, maturity, coupon, call-/put-ability) and liquidity, using transactions previously executed by the manufacturer or data verified by an independent third-party, or from an independent third-party to value the asset, or using relevant indexes where the manufacturer is able to demonstrate that the transaction data derived on that basis is statistically meaningful, sufficiently granular and proper governance and controls are in place to ensure that the data is sufficiently representative of the actual trade.

21. In calculating the costs associated with orders that are initially entered into an auction, the arrival price shall be calculated as the mid-price immediately prior to the auction.

22. By way of derogation from points 13-21 of this Annex, where a product undertakes fewer than [250] transactions in a three-year period, or where the total consideration for all transactions undertaken over 3 years is less than [25%] of the net asset value of the product, the manager may calculate transaction costs using the methodology described in point 20.

23. In calculating the costs associated with foreign exchange, the arrival price must reflect a reasonable estimate of the consolidated price, and must not simply be the price available from a single counterparty or foreign exchange platform, even if an agreement exists to undertake all foreign exchange transactions with a single counterparty.

Transaction costs for other assets

24. In calculating the costs associated with non-financial assets, the aggregate transaction costs shall be calculated as the sum aggregate of the actual costs directly associated with the transaction including all charges, commissions, taxes and other payments (such as anti-dilution levies), where those payments are made from the assets of the PRIIP. In case of cost depreciation over a period specified in the product's accounting policies, actual costs should be equal to the cost amounts depreciated over the last 3 years.

Kommentiert [MK7]: In order to open the possibility to revert to standardised spread tables in case of unavailable live market prices

Kommentiert [MK8]: We see no value in this derogation because it is inoperable and potentially creates an uneven playing field to the detriment of open-ended funds. If at all, a threshold for transactions in asset classes that are only invested in as admixture to the portfolio (e.g. below 20%) might make sense.

Kommentiert [MK9]: In continental Europe, many funds investing in real estate / other real assets have under the fund accounting rules the possibility to depreciate acquisition costs over a certain time period (in Germany up to ten years, depending on the typical operating life of the asset). This approach shall prevent strong fluctuations of the fund NAV and ensure that transaction costs are being borne by all investors participating in the fund in the course of the operating life of a property. In case of cost depreciation, only the annual depreciation amounts over the last 3 years should count as transaction costs, since only those amounts are effectively charged to investors and reflected in the fund's NAV.

25. When estimating transaction costs for assets other than assets as referred to in point 109 of this Annex, the methodology in point 142 of this Annex shall be used and the arrival price shall be calculated as follows:

- (a) for a sale:
 - (i) the arrival price shall be calculated as the previous independent valuation price of the asset, adjusted for market movements, where appropriate, using an appropriate benchmark index;
 - (ii) where a previous independent valuation price is not available, the transaction costs must be estimated based on the difference between the transaction price and an appraisal of the fair value of the asset prior to sale;
- (b) for a purchase:
 - (i) the arrival price shall be calculated as the previous independent valuation price of the asset, adjusted for market movements, where appropriate, using an appropriate benchmark index, where such a price is available;
 - (ii) where a previous independent valuation price is not available, the transaction costs must be estimated based on the difference between the transaction price and an appraisal of the fair value of the asset prior to purchase.

~~26. The transaction cost estimate must not be less than the amount of actual identifiable costs, if any, directly associated with the transaction.~~

Kommentiert [MK10]: Should be deleted in line with our arguments to para. 9.

Transaction costs for new PRIIPs

27. For PRIIPs that have been operating for less than 3 years and that invest predominantly in assets as referred to in point 9-10 of this Annex, transaction costs may be calculated either by multiplying an estimate of portfolio turnover in each asset class with the costs calculated according to the methodology referred to in point (c), or as an average of the actual transaction costs incurred during the period of operation and a standardised estimate on the following basis:

- (c) for the highest multiple of six months that the PRIIP has been operating, transaction costs shall be calculated on the basis described in points ~~12 to 18~~ 14 to 23 of this Annex;
- (d) for the remaining period up to three years, transaction costs shall be estimated by multiplying an estimate of portfolio turnover in each asset class with the costs calculated according to the methodology referred to in point (c);
- (e) the methodology to be used differs depending on the asset class and shall be determined as follows:
 - (i) For the asset classes indicated in the table below, transaction costs (including explicit costs and implicit costs) shall be estimated either by using comparable information or by adding estimates of explicit costs to estimates of half the bid-ask spread, using relevant indexes where the manufacturer is able to demonstrate that the transaction data derived on that basis is statistically meaningful, sufficiently granular and proper governance and controls are in place to ensure that the data is sufficiently representative of the actual trade.
 - ~~(ii) For the asset classes indicated in the table below, transaction costs shall be~~

Kommentiert [MK11]: In order to allow for the use of standardised spread tables for estimating transaction costs in case of new PRIIPs.

~~calculated as the average of the estimated cost of transaction (based on bid-ask spreads divided by two) for the relevant asset class under normal market conditions.~~

- ~~(iii) To estimate the cost, one or more reference indexes shall be identified for each asset class. Then, the average bid-ask spreads of the underlying indexes shall be collected. The data collected shall refer to the closing bid-ask spread at the tenth business day of each month during the last year.~~
- ~~(iv) The bid-ask spreads collected shall then be divided by two to obtain the estimated cost of transaction for each point in time. The average of those values is the estimated cost of transaction in each asset class under normal market conditions.~~

Asset Classes	
Government bonds	Government bonds and similar instruments developed market rating AAA-A
	Government bonds and similar instruments developed market different rating below A
Government bonds emerging markets (hard and soft currency)	Government bonds emerging markets (hard and soft currency)
Investment grade corporate bonds	Investment grade corporate bonds
Other corporate bonds	High yield corporate bonds
Liquidity	Money market instruments (for the sake of clarity, money markets funds not included)
Shares developed markets	Large-cap shares (developed markets)
	Mid-cap shares (developed markets)
	Small-cap shares (developed markets)
Shares emerging markets	Large-cap shares (emerging markets)
	Mid-cap shares (emerging markets)
	Small-cap shares (emerging markets)
Listed derivatives	Listed derivatives

- ~~(v) For the asset classes indicated in the table below, the transaction cost is the~~

average of the observed cost of transaction (based on bid-ask spreads divided by two) in this asset class under normal market conditions.
~~When identifying the observed cost of transaction, results of a panel survey may be taken into account.~~

Asset Classes	
OTC	OTC Exotic options
	OTC Plain vanilla options
	OTC IRS, CDS and similar
	OTC Swaps and similar instruments (different from IRS, CDS and similar)
	OTC FX Forwards developed markets
	OTC FX Forwards emerging markets

28. Estimates of portfolio turnover for a PRIIP that has been operating for less than one year must be made on a consistent basis with the investment policy disclosed in the offering documents. Estimates of portfolio turnover for a PRIIP that has been operating for more than one year must be consistent with actual portfolio turnover.
29. For PRIIPs that have been operating for less than three years and that invest predominantly in assets other than assets as referred to in point 9-10 of this Annex, the PRIIP manufacturer shall estimate the transaction costs on the basis of the fair value method using comparable assets.

12.7.2 Option 2 – more principles-based approach to identify reference price

Points 7 to 23 of Annex VI to be replaced by the following:

Transaction costs - General

7. The information about all costs and charges, including transaction costs incurred by the PRIIP, which are not caused by the occurrence of underlying market risk, shall be calculated and disclosed to the client. Transactions costs shall include explicit charges and where applicable implicit charges.
8. Transaction costs shall be calculated using the methodology described in points 10 to 18 of this Annex for investments in the following instruments:
 - (a) transferable securities as defined by Article 2 of Commission Directive 2007/16/EC (1);
 - (b) other instruments for which there are frequent opportunities to dispose, redeem or otherwise realise at prices that are publicly available to market participants and that are either market prices or prices made available or validated by valuation systems independent of the issuer.
9. Transaction costs shall be calculated using the methodology described in points 22 to 24 of this Annex for investments in other instruments or assets.

Transaction costs for instruments defined under point 8 of this Annex

I. Explicit transaction costs

10. Explicit costs include costs and charges incurred by the PRIIP, and paid out of investor's financial investment in the PRIIP, in order to acquire or dispose of the underlying assets of the PRIIP, such as but not limited to commissions paid to brokers or other intermediaries, stamp duty or market taxes, contract fees and execution fees for OTC derivatives, ~~legal advisers for real estate transactions, clearing fees and booking fees charged by the custodian for other assets~~, where relevant.
11. Explicit costs shall be calculated as the sum of costs incurred by the PRIIP over the previous three years, for all individual transactions undertaken by the PRIIP and in the base currency of the PRIIP, averaged over one year. This sum shall be converted into a percentage by dividing by the average net assets of the PRIIP over the same period.

Kommentiert [MK12]: Clearing and booking fees charged by custodian are not part of TC, same for legal advisors fees for real estate transactions

II. Implicit transaction costs

12. In addition, other charges, which are not explicit costs, impact the overall performance of the PRIIP when acquiring or disposing of underlying assets. These are deemed implicit costs and shall be disclosed by the manufacturer of the PRIIP to demonstrate how transactions are executed on terms that are most favourable to the client.
- ~~13. Implicit costs shall be calculated as the sum of such individual charges incurred by the PRIIP over the previous three years for all individual transactions undertaken by the PRIIP. They shall be calculated in the base currency of the PRIIP, and averaged over one year. This average annual sum shall also be converted into a percentage by dividing by the average net assets of the PRIIP over the same three year period. ~~Where these figures are negative, implicit costs shall be deemed to be zero such that the level of transaction costs cannot be less than the amount of explicit costs~~~~
14. Any and all processes developed by the PRIIP manufacturer to manage, mitigate and measure implicit costs shall be fit for purpose and documented in a clear and sufficiently detailed manner. Implicit costs shall be identified by comparing the execution price recorded for a specific transaction with a suitable reference price. The identification of a suitable reference price shall be duly recorded and follow the approaches set out in points 15 to 18 of this Annex in a manner that is consistent with documented internal procedures of the PRIIP manufacturer to manage, mitigate and measure implicit costs, applied consistently across transaction types.

Kommentiert [MK13]: This should be deleted as it is wrong to pretend negatives don't arise when overstated costs are deemed acceptable.

OTC transactions

15. For OTC transactions, where the manufacturer has obtained executable prices from multiple counterparties or where live executable prices are available, implicit transaction costs shall be measured in the following way by reference to:
 - (a) Where a transaction is executed after bid prices and offer prices have been obtained from more than one potential counterparty, the arrival price shall be taken to be:
 - (i) If the best bid price is below the best offer price, the mid-point between the best bid price and best offer price;
 - (ii) If the best bid price is higher than the best offer price, the best bid price in the case of a sale or the best offer price in the case of a purchase.

(b) Where a transaction is executed without both bid prices and offer prices having been obtained, the transaction cost shall be calculated by multiplying the number of units transacted by half the value of the spread between the bid price and the offer price of the instrument be calculated on the following basis:

- (i) Where available, from a composite of live market bid/offer quotes; or**
- (ii) Where live market quotes are not available by reference, to spreads obtained for either previous transactions in assets bearing similar characteristics.**

In any such case, the number of units traded shall be multiplied by either the reference price of the instrument subtracted from the execution price for each purchase undertaken by the PRIIP or the execution price subtracted from the reference price of the instrument for each sale undertaken by the PRIIP;

16. ~~By way of derogation from~~ **As an alternative to** point 15 of this Annex, where the manufacturer is able to demonstrate that the transaction data used is statistically meaningful, sufficiently granular and proper governance and controls are in place to ensure that the data is sufficiently representative of the actual trade], implicit transaction costs shall be measured by reference to prices obtained for previous transactions in assets bearing similar characteristics (e.g. duration, maturity, coupon, call- / put-ability) and liquidity, using transactions previously executed by the manufacturer or a third party or using available indexes.

T. This derogation shall apply in all cases where a manufacturer undertakes fewer than [250] transactions in a three-year period for an individual PRIIP, or where the total consideration for all transactions undertaken over 3 years is less than [25%] of the net asset value of the product.

Transactions negotiated on platform

17. For transactions negotiated on platforms, implicit transaction costs shall be measured by reference to the price of the instrument at the time the order is ~~executed-transmitted by the portfolio manager or the trader~~ or, if justified by the manufacturer on the basis of the asset type or liquidity or availability of market data, by reference to a relevant intraday price available for the day of the transaction, or by reference to the opening or previous closing price for that security where relevant. In any such case, the number of units traded shall be multiplied by either the reference price of the instrument subtracted from the execution price for each purchase undertaken by the PRIIP or the execution price subtracted from the reference price of the instrument for each sale undertaken by the PRIIP.

18.
NEW 17.

19. ~~By way of derogation from~~ **As an alternative to** point 17, where the manufacturer is able to demonstrate that the transaction data used is statistically meaningful, sufficiently granular and proper governance and controls are in place to ensure that the data is sufficiently representative of the actual trade, implicit transaction costs shall be measured by reference to prices obtained for previous transactions in the same or similar securities presenting similar characteristics (e.g. size, industry) and liquidity, deriving from transactions executed by the manufacturer or a third party or using available indexes.

Kommentiert [MK14]: We see no value in this derogation because it is inoperable and potentially creates an uneven playing field to the detriment of open-ended funds. If at all, a threshold for transactions in asset classes that are only invested in as admixture to the portfolio (e.g. below 20%) might make sense.

Kommentiert [MK15]: In order to eliminate the impact of market movement on transaction cost calculations, the timestamp of arrival price should be moved to the time of order execution.

This derogation shall apply in all cases where a manufacturer undertakes fewer than [250] transactions in a three-year period for an individual PRIIP, or where the total consideration for all transactions undertaken over 3 years is less than [25%] of the net asset value of the product.

Kommentiert [MK16]: We see no value in this derogation because it is inoperable and potentially creates an uneven playing field to the detriment of open-ended funds. If at all, a threshold for transactions in asset classes that are only invested in as admixture to the portfolio (e.g. below 20%) might make sense.

Transaction costs for new PRIIPs

20. For PRIIPs that have been operating for less than 3 years, transaction costs shall be estimated according to the following:
 - (a) estimating the total costs incurred from the costs calculated under the method described under points 10 to 18 of this Annex for a period representing the highest multiple of one year that the PRIIP has been operating, averaged over one year;
 - (b) for a PRIIP that has been operating for less than one year, by estimating the portfolio turnover in each asset class with the costs estimated according to the methodology referred to in points 10 to 14, 16 and 18 of this Annex.
21. Estimates of portfolio turnover for a PRIIP that has been operating for less than one year must be made on a consistent basis with the investment policy disclosed in the offering documents. Estimates of portfolio turnover for a PRIIP that has been operating for more than one year must be consistent with actual portfolio turnover.
- ~~22.~~ For PRIIPs that have been operating for less than three years and that invest predominantly in assets other than assets as referred to in point 8 of this Annex, the PRIIP manufacturer shall estimate the transaction costs *by reference to previous transactions in comparable assets, using transactions previously executed by the manufacturer or data verified by an independent third party on the basis of the fair value method using comparable assets.*

Kommentiert [MK17]: New PRIIPs investing in real assets should be allowed to use proxy data since these are the most reliable indicators for the expected level of transaction costs.

Transaction costs for assets defined under point 9 of this Annex

23. When ~~calculating~~*estimating* transaction costs for assets other than assets as referred to in point 8 of this Annex, transaction costs shall be deemed to consist of explicit costs only and shall be calculated as *annual average of* the aggregate of the costs directly associated with the transaction including all charges, commissions, taxes and other payments (such as anti-dilution levies), where those ~~payments~~*assets* are made from the assets of the PRIIP *over the previous three years.*

Kommentiert [MK18]: Necessary to clarify since the general principles of TC calculations are not included in option 2, but rather shifted to the explicit/implicit cost section.

In case of cost depreciation over a period specified in the product's accounting policies, actual costs should be equal to the cost amounts depreciated over the last 3 years

~~Where the asset has been bought or sold at a price that is materially different from its fair value, implicit costs shall be calculated as follows : (execution price – fair value price)*number of transactions.~~

Kommentiert [MK19]: In continental Europe, many funds investing in real estate / other real assets have under the fund accounting rules the possibility to depreciate acquisition costs over a certain time period (in Germany up to ten years, depending on the typical operating life of the asset). This approach shall prevent strong fluctuations of the fund NAV and ensure that transaction costs are being borne by all investors participating in the fund in the course of the operating life of a property. In case of cost depreciation, only the annual depreciation amounts over the last 3 years should count as transaction costs, since only those amounts are effectively charged to investors and reflected in the fund's NAV.

24. For assets that are not measured at fair value, transaction costs are incremental costs determined in accordance with the product's accounting policies.

24. ~~The transaction cost estimate must not be less than the amount of actual identifiable costs directly associated with the transaction.~~

Kommentiert [MK20]: Differences to FV are either losses (prohibited for German retail funds) or gains for the fund, but conceptually no transaction costs!

Treatment of anti-dilution mechanisms

25. Where a PRIIP has a pricing mechanism that offsets the impact of dilution from transactions in the PRIIP itself, the amount of benefit accruing to the ongoing holders of the PRIIP from anti-dilution mechanisms

Kommentiert [MK21]: Not needed due to the lack of implicit TC



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may be deducted from overall transaction costs up to an amount equal to the implicit transaction costs incurred within the PRIIP using the following methodology:

- a. the monetary amount of any anti-dilution levy, or other payment in connection with a transaction in the PRIIP itself;
- b. the benefit to the PRIIP of issuing units (or otherwise enabling investment in the PRIIP) at a price other than the mid price, or of cancelling units (or otherwise enabling redemption of funds from the PRIIP) at a price other than the mid price, provided that the PRIIP itself receives the benefit, shall be calculated as follows:
 - i. the difference between the price of units issued and the mid-price, multiplied by the net number of units issued;
 - ii. the difference between the price of units cancelled and the mid-price, multiplied by the net number of units cancelled.

<ESA_QUESTION_PKID_43>

- **: 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>

We entirely agree with the ESAs' appraisal that the coexistence of the UCITS KIID and the PRIIPs KID for investment funds would be unacceptable in terms of the overall clarity and comprehensibility of product disclosures. Indeed, from the practical perspective, it is entirely inconceivable that anyone might even contemplate maintaining UCITS KIIDs alongside the PRIIPs KIDs for the purpose of informing professional investors. The duty arising in this respect under the UCITS regime is only a by-product of the general all-encompassing approach under the UCITS Directive which does not differentiate between different investor categories, but always applies the highest protection standards designed for retail investors. Maintaining UCITS KIIDs for professional investors would not only result in the supply of inappropriate information, but also duplicate administrative efforts for producing, updating and publishing KI(I)Ds. As a result, two different KI(I)Ds with inconsistent information would need to be produced for one and the same fund and published on the manufacturer's website which will only create confusion. The additional costs associated therewith will ultimately be borne by all investors in a fund.

It cannot be stressed enough that the legal requirement under the UCITS Directive to produce a KIID for each managed UCITS and to provide it before investing regardless of whether the specific fund is meant to be distributed to retail investors has ever since be a source of red tape and annoyance for both fund providers and investors. It is very clear to anyone with insights into client relationships that professional investors have no interest in the concise product factsheet which is the KIID. The PRIIPs Regulation takes these circumstances into account by making the duty to produce a key information document (PRIIPs KID) conditional upon the product being made available to retail investors. Furthermore, the obligation to provide the PRIIPs KID applies only in case of advice or sale services to retail investors.



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Moreover, the UCITS KIID has not been adopted to the new cost disclosure standards under MiFID II and lacks essential information in particular on transaction costs, but also on some elements of ongoing costs relating e.g. to securities lending. Retaining the UCITS KIID for one group of investors would therefore require a material revision in order to bring it in line with the current "state of the art" disclosure requirements set forth by MiFID II.

Therefore it is in our view out of the question to maintain UCITS KIIDs as an information documents solely for professional investors. Since the UCITS KIID has never aimed at informing potential professional investors which are in no need of protection in this regard, its general abolition will not create a regulatory gap. Nonetheless, should the co-legislators perceive the need to provide professional investors with key information on an investment product, then this should be facilitated by reference to the PRIIPs KID and in addition, should apply to all PRIIPs, not only to UCITS. Duplicative and inconsistent information documents on the same product should be avoided in any event. We must once again caution, however, that a regulatory requirement to submit a KID to professional investors in the course of the distribution process will only create additional costs and red tape without any added value for investor information.

As a consequence, we insist that the UCITS Directive is amended accordingly and the UCITS KIID Regulation repealed in order to have only one Key Information Document for UCITS from 1 January 2022.

<ESA_QUESTION_PKID_44>

- : **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>

We very much welcome the fact that the ESAs envisage re-examining the treatment of saving plans under Article 13 (4) of the PRIIPs Regulation.

The main case of application is likely to be savings plans in funds. A savings plan is a special case of a financial investment providing for regular payments of pre-agreed savings rates. This is a typical investment product for retail clients which enjoys great popularity in Germany. Currently, there are several millions of active saving plans for regular investment in retail funds.

The current market practice works very well on the basis of the UCITS Q&A quoted by the ESAs. This means that where an investor concludes a saving plan contract, the KIID must be made available prior to this conclusion because the investor makes his investment decision at that time. The subsequent regular purchases of fund units are being processed automatically in accordance with the conditions agreed under the savings plan. Therefore it is only consequent – as stated in the UCITS Q&A – that a KIID is not required in relation to the periodic subscriptions, unless a change is made to the subscription arrangements, for example due to an increase or decrease in the subscription amount, which would require a new subscription form.

When implementing the UCITS Directive and the AIFM Directive, the German legislator has even enshrined this understanding under national law in the German Kapitalanlagegesetzbuch. The procedure has therefore been successfully applied in Germany since 2013 without any concerns in terms of investor protection.



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Moreover, since the PRIIPs Regulation requires product manufacturers to publish PRIIPs KID on their websites, investors in saving plans will always have access to the latest available version of the KID. This aligns with the current market practice in Germany: investors can generally either download an up-to-date version of the UCITS KIID via their online banking service, from the manufacturer's website or they can contact their distributors and receive the KIID there. This procedure takes sufficient account of investor protection without unduly overburdening the administration of saving accounts.

For these reasons, we strongly support the amendment of Art. 13 (4) of the PRIIPs Regulation in accordance with the current market practice under the UCITS Q&As.

In any case, however, the requirement under Article 13 (4) of the PRIIPs Regulation should be subject to a thorough interpretation. Our reading of this requirement is that a modified KID needs only to be made available again in case of a significant change in line with Art. 10. Art. 15 (2) of PRIIPs RTS further stipulates which changes are to be classified as significant. Although this provision is not concluding, the examples may be indicative for the assessment of other changes and their relevance. The evaluation should be carried out by the issuer.

<ESA_QUESTION_PKID_45>

- : **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>

We agree that these requirements should be extended to all types of PRIIPs, but should apply only if relevant to a specific product type.

<ESA_QUESTION_PKID_46>

- : **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>

We see no issues with including UCITS Q&A 5 on the use of plain language in the PRIIPs Q&A. Q&A 7, however, does not relate to the details of the key information document, but pertains to other information duties of UCITS management companies under Art. 94 (1) (c) UCITS Directive. Therefore, it should remain within the scope of the UCITS Q&As.

<ESA_QUESTION_PKID_47>

- : **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>

The ESAs are referencing to several Articles of the current UCITS KIID Regulations that need to be carefully considered. Our general view is that specification, if deemed helpful for investors, should apply to all types of PRIIPs for which they are relevant. In particular:

- *Article 7* (specific contents of the description): We think that this requirement should be extended to all PRIIPs.
- *Article 9* (principles governing the identification, explanation and presentation of risks): We think that this requirement should be extended to all PRIIPs. The narrative for risk description in the PRIIPs KID should not be restricted in terms of length, while respecting the overall page limit.



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- *Article 15 to 19 (Past performance):* See our response to **Q26-31** above.

Article 20 and 21 (Practical information and cross-references): Generally, our preference is to keep the current PRIIPs rules as regards practical information. In any case, we do not believe that the content of the current Article 20 (“practical information”) should be included in the “what is this product?” section meant to reflect key information about the investment objectives and strategies of a PRIIP. In the UCITS KIID, practical information is shown at the bottom of page 2 which is where an ordinary reader expects to find references to further information. In the PRIIPs KID, this part corresponds to the “other relevant information” section that shall already include a link to the website where further information is available (Art. 8 (2) of the PRIIPs RTS). If considered necessary even in view of the three-pages-limit constraining the PRIIPs KID, practical information under Art. 20 should be integrated into this section.

<ESA_QUESTION_PKID_48>

- **: 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>

We believe that the ESAs are currently underestimating the efforts that are needed in order to integrate the PRIIPs KID into the UCITS framework. Unlike most other PRIIPs, UCITS are highly regulated investment products with clearly determined processes in terms of manufacturing and distribution. The relevance of the PRIIPs KID in the authorisation/notification process for UCITS needs to be determined at Level 1 of the UCITS framework. Discussions concerning the interplay of UCITS and PRIIPs should thus commence as soon as possible in order to pass the legislative process and put the necessary amendments into place before end 2021.

<ESA_QUESTION_PKID_49>

- **: Do you think this proposal would be an improvement on the current approach?**

<ESA_QUESTION_PKID_50>

While this is not our area of expertise, we are uncertain whether the proposal would be an improvement over the current approach.

<ESA_QUESTION_PKID_50>

- **: 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>

No comments.

<ESA_QUESTION_PKID_51>

- **: 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>

No comments.

<ESA_QUESTION_PKID_52>



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- : **Do you think this proposal would be an improvement on the current approach?**

<ESA_QUESTION_PKID_53>

No comments.

<ESA_QUESTION_PKID_53>

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

<ESA_QUESTION_PKID_54>

No comments.

<ESA_QUESTION_PKID_54>

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

<ESA_QUESTION_PKID_55>

We are very concerned that due to the apparently very tight time schedule, the set of amendments to be proposed by the ESAs will not be fit for purpose of fixing all problems associated with the current PRIIPs information. This concern is particularly pronounced in terms of performance scenarios where several different options are being discussed and tested by both the ESAs and the industry, none of which so far seems to ensure consistently conclusive results across all asset classes.

Hence, the biggest risk in terms of cost-benefit-relationship is clearly that a comprehensive PRIIPs review involving another round of technical modifications will be needed in the short term in order to avoid misleading information of retail investors. This would only produce additional costs that would need to be ultimately borne by the end-investors and unnecessarily bind IT and other project resources in the industry that might be needed for enhancing other initiatives e.g. in the context of sustainable finance.

Moreover, we urge the ESAs to bear in mind the recently exploding licence data costs for the industry and not to propose any calculation approaches that would largely rely on sourcing external data. It must be clear that the use of unverified data from publicly available sources is generally not compatible with the duty of commercial care incumbent upon all authorised and supervised market participants. Thus, any calculations involving the use of market prices or other market data not collected by PRIIPs manufacturers imply additional costs for investors.

<ESA_QUESTION_PKID_55>

- : **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>

We do not have any concrete information on the implementation costs of the proposed changes. However, it is clear that the proposed revised methodology for performance scenarios will result in need of more market data which will increase the cost of producing the PRIIPs KIDs without compelling improvements as regards calculation results.

<ESA_QUESTION_PKID_56>

- : **Are there significant benefits or costs you are aware of that have not been addressed?**



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<ESA_QUESTION_PKID_57>
No comments.
<ESA_QUESTION_PKID_57>