Frankfurt am Main,
17 August 2015

BVI's comments to the Technical Discussion Paper "Risk, Performance Scenarios and Cost Disclosures in Key Information Documents for Packaged Retail and Insurance-based Investment Products (PRIIPs)" dated 23 June 2015 (JC DP 2015 01)

BVI[1] welcomes the opportunity to respond to the technical consultation on the underlying methodologies for presentation of risks, performance scenarios and costs in the future PRIIPs KID. We believe that the work on methodological concepts is essential to ensure that the investor information on PRIIPs is meaningful and able to provide an adequate picture of the main characteristics of a product. Therefore, we highly appreciate the efforts committed to this work by the ESAs.

General remarks

First of all, we would like to applaud the ESAs for the general methodological approach to the risk indicator which encompasses the establishment of a set of criteria against which potential measurement methods should be assessed[2]. In our view, these general assessment criteria define the right parameters for the purpose of evaluating the relevant methodologies. From the investors' perspective, the aspects of **comparability** in terms of values on the one hand and **discriminatory results** allowing for sufficient differentiation between products on the other should be of particular relevance. **Applicability** of the measurement methods to all types of PRIIPs should also be ensured both as a prerequisite for comparable and discriminatory information and for reasons of a level playing field.

Hence, we would like to encourage the ESAs to give special consideration to those three criteria not only for the purpose of assessing methodologies for calculation of the synthetic risk indicator, but in the context of all methodological approaches for determining the values to be displayed in the PRIIPs KID, in particular also in terms of performance scenarios and costs.

Specifically, when looking at the Technical Discussion Paper from a wider perspective, there is a palpable risk that discrimination and hence competition between products will be reduced to the cost aspects. This risk will become more relevant if performance scenarios will be standardised for certain asset classes, e.g. by assumption of certain growth rates for equities, corporate bonds etc., thus inhibiting differentiation of performance prospects according to a specific investment strategy. Such increased cost competition might be problematic for actively managed products which generally display higher transaction costs and might also incur additional costs for activities such as securities lending. It is important to bear in mind that costs charged to investors e.g. in case of revenue-sharing for securities lending are generally outweighed by additional yields attributed to the fund as a result of the securities lending activities. Hence, if the PRIIPs KID requires disclosure of securities lending costs as part of the aggregated cost figure, then it should also allow for disclosure of securities lending benefits in terms of relevant performance gains.

[1] BVI represents the interests of the German investment fund and asset management industry. Its 90 members manage assets in excess of EUR 2.6 trillion in UCITS, AIFs and assets outside investment funds. As such, BVI is committed to promoting a level playing field for all investors. BVI members manage, directly or indirectly, the assets of 50 million private clients over 21 million households. BVI's ID number in the EU Transparency Register is 96816064173-47. For more information, please visit www.bvi.de/en.

[2] Cf. table on page 17 of the Technical Discussion Paper.

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The example of securities lending is illustrative of the general dilemma faced by fund managers with regard to the new disclosure standards under the PRIIPs Regulation: They are required to disclose full costs based on ex-post figures, but according to the Discussion Paper, they seem not to be able to show the corresponding past performance net of costs.

As elaborated in our responses to the questions on performance scenarios below, we do not think that the PRIIPs Regulation actually prohibits presentation of past performance, at least if such presentation can be integrated into the prospective disclosure. Past performance provides key information for discriminating funds with similar investment strategies and thus is generally deemed an essential element of an investment decision. **Hence, and conscious of the difficulties fund managers face, we are in favour of allowing disclosure of a historical scenario in the risk and reward section in which presentation of past performance for the last x years could be combined with a simulation of future performance on the basis of historical data.** Such combined approach should be better suited to account for the specificities of active portfolio management where future portfolio composition and thus future performance cannot be anticipated in an adequate manner.

With regard to the summary risk indicator, we propose an indicator separating the assessment of market risk (based on value at risk measures as described under option 3), credit risk and liquidity risk (the time it takes to disinvest without price reductions) in combination with a narrative description of the liquidity risk. An indicator of credit risk should be based on a qualitative measure such as external ratings for products subject to the issuer's credit risk combined with an **explicit proviso that products such as investment funds where the funds' assets are structurally segregated and thus shielded against the fund provider's insolvency should be in general classified as a product with the lowest credit risk category**.

Concerning the proposed approaches to cost calculation, we deem it of utmost importance that they are fully consistent with the disclosure requirements under MiFID II. Obviously, firms distributing investment products will need to rely on the disclosure of product costs provided in the PRIIPs KID for the purpose of computing the aggregated cost figure comprising charges of both product and service. Therefore, it is essential that the basis for calculation of product costs is congruent under those two EU frameworks, especially since both are based on the principle of comprehensive transparency of costs. This aspect is of specific relevance for the treatment of costs resulting from the market impact of transactions which shall be disregarded for the purpose of MiFID II disclosure (cf. our response to Q39). Moreover, a consistent approach to the calculation of product costs under MiFID II and PRIIPs is in general necessary in order to warrant uniformity of the EU legal order.

Furthermore, it should be made clear as a matter of principle that double counting of cost items should be avoided. For instance, costs of investment research and other broker services should not be accounted for separately if these services are remunerated as part of transaction costs.

Another principle we would like to enshrine in terms of cost calculation is that all deductions from the initial investment amount/premium payment which are not invested on investors' behalf or not reflected in the fair value of a product shall be deemed costs and thus included in the aggregated cost disclosure. Otherwise, there is the risk that shunting yards will be created in certain products which would allow them to disguise cost elements by shifting them from the transparent to the non-transparent part and as a consequence, to manipulate cost disclosure in the PRIIPs KID. Specifically, we would like to refer to the suggestions for excluding the biometric risk premium charged by life insurance products from the calculation of the aggregated cost indicator. In our view, such exclusion is

clearly inappropriate since the coverage of biometric risk is an intrinsic element of life insurance contracts which inherently reduces the amount invested on behalf of the policyholder and impacts the performance prospects of such investment (for details, cf. our response to Q45).

By reference to the assessment criteria highlighted above, we would like to note on more general terms that the aggregated cost values disclosed for different PRIIPs should be comparable, meaning that all cost components relevant to each type of PRIIP should be captured by the relevant calculations. In the same vein, the aggregated cost indicator must be applicable to all PRIIPs in order to ensure comparability of costs for investors.

Answers to the questions for consultation

Section on Risk and Reward

2.2 Common issues for both the risk indicator and performance scenarios

2.2.1 Distribution of returns

Q1: *Please state your preference on the general approach how a distribution of returns should be established for the risk indicator and performance scenarios' purposes. Include your considerations and caveats.*

There is no general answer to this question. The difficulty in this matter, as in others (please see the following questions 2 - 5), is that the general approach to determining a distribution of returns is of relevance for the risk indicator on the one hand and for the performance presentation on the other. The answer depends mainly on the chosen approach for computing a risk measure and the performance presentation. In our view, it is not possible to use a modelling approach as a single approach for both measures.

Generally, we are of the view that verified historical data represent the most reliable source of information as regards a fund's performance. Therefore, we are in favour of presenting performance information in the PRIIPs KID as a combination between a product's history of returns (where there is such history) and possible future performance scenarios (please see our answer to question 15). In this respect, there is the need to use an approach to the estimation of the distribution of returns directly obtained from historical data (option a).

In case historical data are either not available or cannot be considered representative for the future, we have a preference for option d) (stochastic modelling based on predefined parameters). Stochastic models might fit best the requirements to reflect a variety of market scenarios and variety of product features (e.g. actively managed versus index-tracking products). To fulfil the requirement of being comparable, the model should be based on an agreed process and hold for all manufacturers. It should be based on a predefined set of parameters such as quantitative and qualitative criteria (please see our answer to Q2). In this context, it should be kept in mind that all stochastic models come with significant challenges for implementation, as the simulations would have to be executed with product-specific contract data.

2.2.2 Choice of model, choice of parameters

Q2: *How should the regulatory technical standards define a model and the method of choosing the model parameters for the purposes of calculating a risk measure and determining performance under a variety of scenarios?*

What should be the criteria used to specify the model? Should the model be prescribed or left to the discretion of the manufacturer?

What should be the criteria used to specify the parameters? Should the parameters be left to the discretion of the manufacturer, specified to be in accordance with historical or current market values or set by a supervisory authority?

First of all, we assume that there is not only one model or method of choosing the parameters of each model. However, in any case, the main characteristics of the model(s) and the possible methods of choosing the parameters of each model should be based on a predefined set of rules. This approach appears most suitable to warrant comparability of the used model(s) for each product from the viewpoint of investors and to hinder manipulative presentation of risk and performance measures. Therefore, the main criteria used to specify the model(s) should be prescribed by the authority and should not be left to the discretion of the manufacturer. Nonetheless, the definitions should consider that each model is flexible enough to capture the key features of the underlying risk factors to be modelled. Otherwise, it should not bear unnecessary complexity.

However, if there are several models or methods available which are designed to create a similar and appropriate result, the manufacturer itself should be responsible for choosing the model. This choice should be based on a documented risk assessment. Moreover, when deciding about appropriate models, the ESAs should also consider established standards of practice such as for calculating the (past) performance of special products (e.g. the BVI method for calculation of an investment fund's performance which is similar to the past performance calculation methodology for UCITS according to Article 16 of the Regulation (EU) No 583/2010 of 1 July 2010).

In our view, the ESAs or the assigned competent authority should offer a predefined set of parameters comprising quantitative criteria (e.g. probability level) and qualitative criteria (e.g. what specific figures linked to measure the main risks or performance, organisational structures and workflows for identifying, measuring, monitoring the models, the responsibility of the control function etc.). Moreover, depending on the purpose of the model (such as presentation of past performance or possible future scenarios) the ESAs or the assigned competent authority should specify whether the model is based on historical or current market values.

2.2.3 Time value of money – what represents a loss for the retail investor?

***Q3:** Please state your view on what benchmark should be used and why. Are there specific products or underlying investments for which a specific growth rate would be more or less applicable?*

We prefer option a) (the amount invested without any adjustment) as a benchmark which represents a loss for the retail investor. This approach appears most appropriate for establishing a fair and level playing field among investment products.

While having some sympathy for the other options (the amount invested grown at the risk-free growth rate or grown the rate of inflation), we also see the difficulties regarding their implementation. In the absence of a common understanding of how "risk-free rate" or "rate of inflation" are best calculated, it is necessary to define those rates. For example, "rate of inflation" is currently defined at national level and varies depending on the categorisation of the relevant Member State. Therefore, the calculation of such rates would need to be coordinated at EU level and assigned as a centralised task to the ESAs or one selected authority. Otherwise, there is the risk that different results in terms of time value of money will

be applied at national level which will inhibit comparability of product information for cross-border marketed PRIIPs. However, in case the ESAs favour an approach adjusted by a growth rate, we are in favour for option c) (the amount invested grown the rate of inflation) as the inflation aspect is of primary relevance for investors as regards retirement savings.

Q4: *What would be the most reasonable approach to specify the growth rates? Would any of these approaches not work for a specific type of product or underlying investment?*

We interpret the ESAs' statements in this section that only the investor's perspective should be relevant to determine the growth rate of each asset depending on its risks (described as risk premiums). Therefore, any prudential standards (such as capital requirements under the CRD IV or Solvency II Directives) which rely on risk-neutral growth rates for the purposes of calculating capital requirements from the bank's or insurance undertaking's perspective should not be considered. These capital requirements have the purpose of ensuring the adequacy of own funds for such firms, having regard to the risks to which they are exposed, and cannot determine the growth rate of each PRIIP depending on its risks.

Given that the monies invested in investment funds are structurally separated from the fund manager's own funds, no prudential capital requirements apply for investment management companies in connection with the financial risks present in the managed investment funds under the AIFMD or the UCITS Directive. However, this situation cannot lead to the conclusion that in the area of investment funds a risk neutral rate does not exist (because there are no special capital requirements). Rather, the imminent fund structure is of utmost importance for assessing credit risks of investment funds (cf. our answer to Q6 below).

In our view, the growth rate should include risk premiums. Therefore, we prefer option b) (the asset grows at the risk free rate adjusted for an asset specific risk premium), always supposing that the "asset specific risk premiums" could only be determined by the regulators and could not be left to the discretion of the manufacturer. Constant risk premiums should be sufficient since the products are compared only on a relative basis by the customers.

2.2.4 Timeframe of the risk and reward information

Q5: *Please state your view on what time frame or frames should the Risk Indicator and Performance Scenarios be based.*

The question of how to present the risk at intermediate times between the purchase date and the recommended time horizon should be handled according to option a). Showing the risk indicator and performance scenarios for several intermediate times as well as the recommended holding period might be the most appropriate way, because several PRIIPs have fixed maturities or maturities which are not in line with the shown intermediate times (because there is a longer maturity of the product). For performance scenarios, such intermediate information could be presented in one integrated graph. Such approach would also be consistent with the suggested illustration of aggregated costs for different investment periods (cf. our reply to Q85 below).

2.3 Construction of a Risk Indicator
2.3.1 Measurement of Risk

2.3.1.2 Credit risk

Q6: *Do you have any views on these considerations on the assessment of credit risk, and in particular regarding the use of credit ratings?*

We welcome the assumption that credit risk should not depend on the evolution of the underlying assets. In particular, in the area of investment funds (such as UCITS or AIF) credit risk of the assets in which a fund is invested is reflected in the PRIIP's market risk. It is important to highlight that, from the view of an investor, there is no credit risk because the invested money is structurally separated from the own funds of the investment management company. In other words, unlike banks or insurance undertakings, investment management companies do not take risks onto their own balance sheets. The risk profile of highly regulated and transparent investment funds differs significantly from that of other financial products. The risk of loss on investment arising from the investment management company's default is not existent. This situation is highly relevant for assessing credit risk of an investment fund. **Therefore, investment funds should be in general classified as products with the lowest credit risk category.**

However, we request the ESAs to reconsider the approach for assessing credit risk presented in footnote 8 with regard to investment funds that make use of efficient portfolio techniques or financial derivative contracts. In these cases, the ESAs state that it could be appropriate to assess credit risk attached to the underlying investment independently from market risk. In our view, an additional assessment of credit risk is neither necessary nor appropriate. In particular, it is required by law (such as the UCITS Directive) and common practice (in the area of alternative investment funds) that the use of financial derivative contracts is part of the assessment of the fund's market risk. Moreover, investment funds making use of efficient portfolio techniques (such as security lending) or financial derivative contracts are subject to strict requirements for proper collateralisation. In particular, the EMIR framework imposes stringent bilateral collateralisation obligations (ESAs' Second Consultation Paper on Draft Regulatory Technical Standards on risk-mitigation techniques for OTC-derivative contracts not cleared by a CCP under Article 11(15) of Regulation (EU) No 648/2012). As a supplemental requirement, due diligence obligations in the selection and appointment of counterparties apply (cf. ESMA's guidelines on ETF and other UCITS issues, Ref.: ESMA/2014/937, Article 20 of the Delegated Regulation (EU) No 231/2013). In addition, the individual assessment of the creditworthiness of financial instruments or entities is part of a fully regulated general risk management process by the investment management companies. Credit risks arise in the area of asset management only as part of market risks which means the risk of losses for the investment fund resulting from, in particular, an issuer's deteriorated creditworthiness. This process involves, in the light of the principle of proportionality, the assessment of any risk (including the creditworthiness) of each relevant asset invested in by the investment funds and the establishment of an internal risk limit system for any relevant risk (including credit risk) on both asset and fund level. The basis of the investment decision process is the risk limit system specified by the independent risk management function in accordance with the general risk assessment. The portfolio management function may only make investment decisions within limits specified by the risk management function or within internal and legal investment limits (such as defined by fund rules).

In other cases, where the PRIIPs is an insurance or bank product (and thus the relevant risks are reflected in the company's balance-sheet and the investor is not the beneficial owner of the assets), we

also agree that depending on the creditworthiness of the counterparty, credit risk is a key risk that investors need to be made aware of. In such cases, assessment of credit risk should be done by qualitative criteria including the use of credit ratings. Nevertheless, over-reliance on such credit ratings has to be avoided. **In any case, it should be clarified that there is no need to assess the credit risk of an investment management company under the rating-based approach of the CRR or Solvency II Directive.**

2.3.1.3 Liquidity risk

Q7: *Do you agree that liquidity issues should be reflected in the risk section, in addition to clarifications provided in other section of the KID?*

We agree that liquidity issues should be reflected in the risk section, in addition to clarifications about the liquidity risk profile of a product provided in a different section of the KID.

As a main risk, liquidity risk should also be translated into the risk scale of the summary indicator and described as a narrative below the indicator. In our view, a mere narrative description of liquidity risk is not sufficient because it may confuse investors, particularly in cases where liquidity risk is very high in relation to the risks illustrated in the summary risk indicator of the product (without liquidity risk). We therefore propose a separate liquidity risk scale as part of the summary indicator which is based on qualitative measures such as the time it takes to disinvest without significant price reductions (e.g. costs of cashing in early). As regards the relevant timeframe, a scale based on exact periods could be stipulated in order to allow for proper comparability of liquidity risk. As an example, Annex IV of the Delegated Regulation (EU) No 231/2013 contains a prudent reporting template for alternative investment funds' relevant risk including information on the investor liquidity profile which is broken down into a seven-point liquidity scale:

1 day or less	2-7 days	8-30 days	31-90 days	91-180 days	181-365 days	more than 365 days

Alternatively, if the ESAs consider it more appropriate, such illustration could be provided in the section titled "How long should I hold it and can I take money out early?" as visualisation of a product's liquidity profile. In any case, we think that a visual presentation in the manner suggested above would be very helpful for investors in order to ensure meaningful comparisons between different types of PRIIPs.

Q8: *Do you consider that qualitative measures such as the ones proposed are appropriate or that they need to be supplemented with some quantitative measure to some extent? Should cost and exit penalties for early redemptions be considered a component of the liquidity risk and hence, be used to define a product as liquid or not for the KID purpose?*

In principle, the proposed qualitative measures (such as if a product is traded or will be traded on a regulated market or MTF, a liquidity provider exists, market rules ensuring liquidity under normal conditions and/or when regular redemption dates are offered throughout the life of the product under normal market conditions) as part of the narrative description below the summary risk indicator are appropriate. The precondition for this, however, is that other criteria such as cost and exit penalties for early redemptions are clearly disclosed in other sections of the KID.

Moreover, the qualitative criteria should be supplemented with information about the possibility of trading on secondary markets. For instance, the absence of a regulated market for a PRIIP does not automatically result in a high liquidity risk because it is possible that the PRIIP could be traded on a well-functioning secondary market (such as a secondary market for closed-ended funds).

2.3.2 Translation of risk measures into risk indicators
2.3.3 Merging the main risks into a Summary Risk Indicator (SRI)

Q9: *Please state your views on the most appropriate criteria and risk levels´ definition in case this approach was selected.*

We do not believe that a qualitatively based indicator combining credit and market risk, complemented by a quantitative market risk measure as proposed under option 1 would be appropriate.

In particular, the proposed risk classification is just a ranking of the quality levels of the guarantees. Moreover, this approach seems not feasible for products which could not be automatically classified under the predefined risk classes (such as multi-option products). In particular, the categorisation into the several risk classes involves significant definition difficulties. For example, according to the proposal, highly leveraged AIFs should be classified in risk class 5. A legal definition of “highly leveraged AIF” does not exist. This situation creates legal uncertainty in relation to both the manufacturer who bears the responsibility for applying the classification method on its product and the investor who needs to interpret the outcomes of such classification.

Moreover, taking into consideration these difficulties, we fear creation of an unlevel playing field for different types of PRIIPs. In particular, traditional insurance-based PRIIPs would always end up being classified in the lowest risk category due to their products’ insurance wrapper. Given that the ESAs also consider not regarding the insurance wrapper as a cost element and therefore not disclosing the relating costs to investors, these types of products could be portrayed as less risky and cheaper than other types of comparable PRIIPs (for further details, cf. our answer to Q45 below).

Q10: *Please state your views on the required parameters and possible amendments to this indicator.*

In principle, the proposed option 2 with an indicator separating the assessment of market risk and credit risk seems to be the best solution. To depict market and credit risk in two dimensions provides a comprehensive overview about these risks relevant for PRIIPs in accordance with their respective particularities and objectives.

However, we recommend implementing option 2 with the modification that the quantitative measure of market risk should be based on value at risk (VaR) as proposed under option 3 (for more detail please see our answer to Q11). It is not sufficient to model market risk of each PRIIP with a volatility based approach. In particular, in the area of alternative investment funds invested in assets such as property or private equity volatility does not provide an adequate basis for measurement of market risks. Property market yields for most of the EU have a significantly longer history than ten years and they accurately reflect price volatility as they record actual transactions in the market. This also applies for products with a shorter duration (such as derivative based products). This makes it all the

more difficult because the quantitative measure of market risk based on the UCITS method has been developed only for securities funds invested in liquid assets with a five year realised volatility. Moreover, the proposed modification of the UCITS method does also not meet the specifications of such products and has not been tested in practice. Therefore, we share the ESA's assessment of the main disadvantages in terms of applicability, reliability, robustness and supervision of the volatility based approach for the measurement of market risk. All in all, the disadvantages are strongly overbalanced.

Furthermore, with regard to credit risk, we refer to our answer to Q6 above. Investment funds should be in general classified as products falling within the lowest credit risk category and there should be no need to assess credit risk of an investment management company under the rating based approach of the CRR or Solvency II Directive. However, in other cases, the assessment of credit risk could be done by qualitative criteria, including the use of credit ratings. We agree that the credit risk grading grid has been designed to be consistent with the generic classification used by major rating agencies. In this context, we would like to underscore the importance of comparability and consistency of credit ratings (and the calculation of credit risk) with reference to the CRR Regulation and the Solvency II Directive. This is of crucial practical importance since it ensures proper assignments of the various ratings to different credit quality steps.

Q11: *Please state your views on the appropriate details to regulate this approach, should it be selected.*

We are in favour of the proposed value at risk (VaR) approach for measuring market risks. The VaR approach is able to produce meaningful results for all PRIIPs. In Germany, VaR has proven as an adequate risk measure which has only recently prompted its recognition as a calculation basis for the risk indicator to be used in the product information sheet for personal pension products. However, the results based on the VaR approach should be part of the proposed two-dimensional indicator under option 2. Therefore, credit risk should be measured according to option 2 considering our remarks with regard to credit risk imminent in investment funds (cf. our response to Q10 above).

Q12: *Please state your views on the general principles of this approach, should it be selected. How would you like to see the risk measure and parameters, why?*

We welcome the proposed possible amendments to the VaR approach (option 3).

In particular, back testing procedures, where appropriate, are a common standard in the asset management area with regard to the use of VaR measurements. According to German law, the quality of risk model-based forecasts must be demonstrably determined by means of a daily comparison between (a) the potential market risk amount calculated on the basis of the risk model assuming a holding period of one working day; and (b) the actual change in the value of individual financial instruments or financial instrument categories (back-testing).

Moreover, we support the idea to set up a public database which includes all public pieces of information such as risk factor mappings and risk premiums. Such a public database would not only enable outsiders to replicate the risk calculation, but it could also facilitate risk reporting and help to streamline reporting requirements in terms of data standards and contents. In particular, the applicable and pending requirements for **regulatory reporting** on positions and risks required under AIFMD, UCITS Directive and MMF Regulation as well as reporting obligations for institutional investors under Solvency II/CRR which require delivery of data and further support services by asset managers display consider-

able differences in terms of reporting details, reporting channels, data repositories and applicable IT standards. Enhancing consistency and bringing more light into the jungle of reporting requirements is badly needed in order to enable the regulators to use the stored data for the purpose of detecting systemic risk and to keep the administrative burden for market participants at a reasonable level. A reasonably streamlined approach to reporting should entail cost savings for market participants such as investment management companies which may run into millions of Euros.

Q13: *Please state your views on the potential use of a two-level indicator. What kind of differentiators should be set both for the first level and the second level of such an indicator?*

The proposed two-level indicator seems to be appropriate as an alternative. It might be a good solution to have a raw classification first and a more granular risk classification for comparison purposes. Nevertheless, the question is whether the first level indicator based on simplified dimensions is sufficient for a classification of the product. Due to the limited information in the Discussion Paper, it is not possible to estimate the specific implications of such classification for different PRIIPs.

2.3.3.2 Scale of the Risk Indicator

Q14: *Do you have suggestions or concrete proposals on which risk scale to use and where or how the cut-off points should be determined?*

We propose a Summary Risk Indicator separating the assessment of:

- Market risk based on quantitative measures using forward looking simulation models (as proposed under option 3),
- Credit risk based on qualitative measure based on external ratings (as proposed under option 2) with an explicit requirement that investment funds should be in general classified as products with the lowest credit risk category and
- Liquidity risk based on the time it takes to disinvest without price reductions (e.g. costs of cashing in early) in combination with a narrative description of the liquidity risk.

We agree with the proposal that market risk as the most relevant type of risk for PRIIPs should be on the frontline of the quantitative part of the Summary Risk Indicator. However, from the viewpoint of investors, it would be appropriate that the individual risk scales forming the overall SRI each display an equal number of risk buckets such as follows:

Market Risk

1	2	3	4	5	6	7

Credit Risk

A	B	C	D	E	F	G

Liquidity Risk

1 day or less	2-7 days	8-30 days	31-90 days	91-180 days	181-365 days	more than 365 days

2.4 Performance scenarios

2.4.3 Assessment of different approaches

Q15: *Please express your views on the assessment described above and the relative relevance of the different criteria that may be considered.*

Past and prospective performance in case of investment funds

For the bulk of investment funds, presentation of performance scenarios is a new and challenging exercise. Since investment funds are generally characterised by active asset management and frequent issuance/trading activities allowing investors to purchase fund units during a fund's lifetime, it has been traditionally considered more appropriate for investment funds to present past performance figures instead of future scenarios of possible performance. Past performance provides key information for discriminating funds with similar investment strategies and thus is generally deemed an essential element of an investment decision. Presentation of past performance needs to be supplemented by a warning about its limited value as a guide for the future[3].

Under the PRIIPs Regulation, it is difficult to account for the particularities of open-ended actively managed funds when it comes to performance information. The Level 1 text does not explicitly prohibit presentation of past performance in the PRIIPs KID. Even though Article 8 para. 3 (d) (iii) refers specifically to performance scenarios, it provides for the limitation that such scenarios shall be "appropriate" which raises the question what shall apply in case of actively managed funds. Recital 15, on the other hand, contains a general reference to "relevant performance information".

In our view, past performance based on validated figures should be still regarded as the most reliable source of performance-related information in case of investment funds. Since the composition of a fund and thus the performance of the underlying assets are not known in advance, it should be preferable to assess future performance prospects with reference to historical data. **Therefore, we believe that it should be permissible to display at least one historical scenario, if available, in the PRIIPs KID alongside potential further simulation of future performance. In addition, products with a sufficient performance history should also be allowed to show past performance for a certain time period, e.g. five years. Such presentation of past performance could be combined with the historical scenario in one integrated graph** (for further details, cf. our reply to Q17 below).

Approaches to performance scenarios

As regards the contemplated approaches to the construction of performance scenarios, we would certainly exclude "what if"-scenarios based on a manufacturer's choice. Leaving the choice of the relevant scenario to the manufacturer might be helpful for illustrating the product characteristics, but would deprive performance information presented in the PRIIPs KID from any element of comparability. Besides, there is the obvious risk that each manufacturer would select the most favourable scenario for a particular product meaning that the underlying construction would be prone to manipulations and not result in a realistic picture of the prospective performance.

[3] Cf. Article 15 para 5 (a) of the Implementing Regulation (EU) 583/2010 (UCITS KIID Regulation).

In terms of the remaining options, we have a preference for the probabilistic approach defining scenarios according to the likelihood of possible returns. This approach appears particularly fitting if combined with the VaR methodology for the calculation of market risk for the purpose of SRI since it would then ensure a consistent evaluation of risk and reward prospects in an investment product. For many PRIIPs with path-dependent allocation processes, probabilistic modelling should be best suited to provide a realistic view on possible performance. However, the methodologies and assumptions underlying probabilistic calculations would need to be sufficiently standardised in order to ensure comparability of the output to be presented in the PRIIPs KID.

In this context, we do not think that consumers would be more inclined to mistake a scenario for a return promise in case of probabilistic calculations as compared to other calculation methodologies. In any case, performance scenarios should be supplemented by a meaningful narrative disclaimer on the limited relevance for future results.

2.4.4 How to construct performance scenarios: methodological details to be prescribed in the regulation and input required

Q16: *Do you think that these principles are sufficient to avoid the risks of manufacturers presenting a non-realistic performance picture of the product? Do you think that they should be reinforced?*

Since we reject the use of "what if" scenarios based on the manufacturer's choice, we do not deem the current principles laid down in the CESR Guidelines for UCITS sufficient.

Q17: *Do you think the options presented would represent appropriate performance scenarios? What other standardized scenarios may be fixed?*

As depicted in our reply to Q15 above, we indeed favour the inclusion of a historical scenario for the illustration of performance prospects anticipated in investment funds. Since validated past performance figures represent the most reliable source of performance-related information, they should be used as a basis for the purpose of simulating possible future performance outcomes. In addition, investment funds featuring a sufficient performance history should be allowed to display past performance alongside the historical scenario in one integrated graph. Such graph could be construed by setting the fund value relevant at the time of KID issuance at the centrepiece of performance illustration and showing e.g. the past performance for the last x years as well as possible future performance calculated with reference to historical data for the next x years. In our view, the value of x could be fixed at 5.

In this respect, we favour computation of a historical scenario on the basis of monthly issuance of a product instead of the weekly consideration suggested by the ESAs. Monthly data are less flawed by random or valuation-based outliers compared to weekly data. In the proposed 5-year-term monthly data produce a sufficient number of data points to accommodate a representative distribution of returns.

The problem with setting a predefined growth rates for the underlying investments is that all PRIIPs focusing on similar selection of assets would present similar performance scenarios regardless of the applicable investment strategy. For instance, an actively managed fund investing in European equities would simulate performance scenarios according to the same growth rate as an index fund or a structured product tracking the performance e.g. of a STOXX Europe index, even though the former might

be able to generate additional revenues (or incur losses) by active stock picking and efficient portfolio management techniques. Hence, we think that scenarios based on assumed growth rates per asset class would not produce sufficiently discriminatory results for enabling investors to reach an informed investment decision and for that reason, should not be preferred as an option for computing performance figures.

***Q18:** Which percentiles do you think should be set?*

From BVI's point of view, a probabilistic approach defining scenarios according to the likelihood of possible returns represents the preferred option for computing performance figures. This approach appears particularly fitting if combined with the VaR methodology for the calculation of market risk for the purpose of the SRI since it would then ensure a consistent evaluation of risk and reward prospects in an investment product (cf. our reply to Q 10 and 11 above). For many PRIIPs with path-dependent allocation processes, probabilistic modelling should be best suited to provide a realistic view on possible performance. However, the methodologies and assumptions underlying probabilistic calculations would need to be sufficiently standardised in order to ensure comparability of the output to be presented in the PRIIPs KID.

As regards computation details, we agree with using the 50th percentile for a neutral scenario, but have certain preference for computing the negative scenario as the 25th and the positive scenario as the 75th percentile. The choice of 10th and 90th percentiles might lead to enormous spreads in the anticipated performance and would rather illustrate performance outliers. In any case, the KID as such should not include information on the relevant likelihood of distribution.

***Q19:** Do you have any views on possible combinations?*

Given that we favour presentation of a historical scenario including past performance figures and otherwise have a preference for the probabilistic approach (cf. our reply to Q17 and Q18 above), we advocate a combination of those two. Specifically, this could mean an adjustment of the combination solution envisaged under c) by replacing the insurance event with a historical scenario. As an alternative, the historical scenario could be perceived as a substitute for the neutral one under the probabilistic approach and accordingly, be supplemented by a negative and a positive outlook on future performance.

In any event, it is most important to us that presentation of a historical scenario, optimally expanded by past performance figures, will be permissible in the PRIIPs KID.

***Q20:** Do you think that credit events should be considered in the performance scenarios?*

We are strongly in favour of introducing a separate summary indicator on credit risk since we believe that potential losses stemming from a credit event of the issuer or counterparty should be included in the illustration of a product's risk profile (cf. our reply to Q6 and Q14 above). Under this approach, there should be no need to consider credit events when construing performance scenarios.

However, in case credit risk will be insufficiently accounted for in the summary risk indicator, a scenario based on the assumed default of the issuer might be a viable option.

Q21: *Do you think that such redemption events should be considered in the performance scenarios?*

In our view, redemption events and their implications in terms of performance should be reflected in performance scenarios. This pertains in particular to triggered redemption events such as reaching the knock-out level which are generally outside the influence sphere of the investor. In such cases, the negative scenario should assume the occurrence of the relevant trigger. Voluntary redemptions should be part of the performance simulations if they regularly occur in a certain product category and thus should be illustrated to an average investor.

As regards voluntary redemptions, however, we deem it equally important to illustrate the impact of such early redemption in the cost section by computing the aggregated cost indicator with reference to different investment periods and supplementing it by information on the cumulative impact of costs on performance (e.g. by including a column on "what might you get back" as suggested with respect of the RIY presentation on page 106 of the Discussion Paper). For further details, cf. our response to Q48/49 and Q93 below.

Q22: *Do you think that performance in the case of exit before the recommended holding period should be shown? Do you think that fair value should be the figure shown in the case of structured products, other bonds or AIFs? Do you see any other methodological issues in computing performance in several holding periods?*

We have some difficulties to understand this question. Assuming that the ESAs point to the non-linear performance evaluation in case of fixed-term products, we would tend to agree that the calculation of fair value for certain predefined periods and combining those figures into one graph could be a possible way forward. However, such approach should mainly be appropriate for products for which redemption opportunities before maturity exist and therefore, illustration of incremental fair values could become relevant. In case of other PRIIPs with a fixed term, e.g. for closed-ended AIFs in Germany which are generally not traded on secondary markets, where investors have no early redemption opportunities, estimation of intermediate values appears less reasonable.

3. Costs

3.1 Identifying the costs

3.1.1 Funds

3.1.1.1. List of costs to be taken into account

Entry-Exit costs

Q23: *Are the two types of entry costs listed here clear enough? Should the list be further detailed or completed (notably in the case of acquisition costs)? Should some of these costs included in the on-going charges?*

First of all, we would like to observe that the list of entry and exit costs to be accounted for in the cost disclosure should be exhaustive. An exhaustive list would be in line with the general nature of the PRIIPs KID as a fully standardised document and would provide the appropriate legal certainty for

product providers responsible for producing the PRIIPs KID. More generally, such all-encompassing approach should be preferred for all information items subject to the PRIIPs disclosure.

As regards clarity, we are indeed uncertain what is supposed to be disclosed as acquisition costs. We understand that this term does not refer to the acquisition costs of the fund's underlying assets in case of issuance of new fund units. Otherwise, we must note that such costs can be only relevant in funds which pass the costs of portfolio adjustments to new investors. However, even in these cases, acquisition costs (and by the way, also disposal costs) may be very difficult to establish, e.g. in case of swing pricing when partial swinging is applied. Another uncertainty pertains to the footnote 17. It is unclear since there is no natural link between real estate AIFs and a commercial register. The commercial register is relevant for all funds with a company structure. This may or may not be real estate AIFs depending on their legal structure. With respect to the underlying assets of real estate AIFs, the land register would be relevant. However, fees to the land register are due when buying or selling real estate, but normally not on occasion of the entry or exit of an investor.

Moreover, it also appears unclear what is meant by "marketing costs" or "constitution costs" to be included in the up-front initial cost calculation. We assume that for most open-ended investment funds, such costs will either not incur at all, or they will not flow into the initial charge to investors, but will be treated as administrative expenses and hence, will be reflected in the ongoing charges figure for the relevant year. This applies also to the fees for supervisory authorisation which are generally being charged after a fund's launch.

Therefore, for most open-ended investment funds the entry costs should be limited to the up-front subscription fee in case such fee is charged by the product provider and agreed with investors as part of the investment contract. Otherwise, if the front-load fee is charged directly by the distributor, it should not form part of the product information, but be disclosed by the distributor at the point of sale.

With respect to closed-ended funds, costs like constitution or marketing costs may initially be incurred. A clear distinction between initial costs and ongoing charges is therefore decisive. Based on the experience with costs charges of closed-ended funds in Germany, a clear distinction may be drawn with the issuance of the marketing notification that is required for all AIFs according to the AIFMD, hence also for all closed-ended funds. Costs that incur before this notification are upfront initial costs paid directly or deducted from a payment received by the investor such as costs for the conception and set up of the fund structure or for the placement guarantees issued by distributors.

On-going charges

Q24: *How should the list be completed? Do you think this list should explicitly mention carried interest in the case of private equity funds?*

Generally speaking, the list of cost items to be included in the calculation of ongoing charges should be exhaustive, not indicative, in order to ensure full comparability of cost disclosure and sufficient legal certainty for product providers (cf. our response to Q 23 above).

In specific terms, we agree with the list of payments provided in subsection (a) since these payments are already taken into account under the CESR Guidelines for the calculation of the ongoing charges

figure in the UCITS KIID. In view of remuneration structures prevailing in the private equity sector, we deem it reasonable to explicitly mention carried interest in the list of relevant payments.

Q25: *Should these fees be further specified?*

We do not see the need for further specification, but suggest including payments to securities lending agents in the list of relevant payments. Securities lending agents can act as insourcers of portfolio management functions in case of funds engaging in effective portfolio management techniques.

Q26: ~~*Should these fees be further specified? The "recovering fees" cover the following situation: when an investor receives income from foreign investments, the third-country government may heavily tax it. Investors may be entitled to reclaim the difference but they will still lose money in the recovering process (fee to be paid).*~~
[Supposedly this question should deal with lit (c) "registration fees, regulatory fees and similar charges, including passporting fees"]

We agree with the inclusion of fees specified in subsection (c). In this regard, we would deem fees for listing on stock exchanges incurred e.g. by ETFs to be covered by the term "similar charges".

Q27: *Should these fees be further specified? The "recovering fees" cover the following situation: when an investor receives income from foreign investments, the third-country government may heavily tax it. Investors may be entitled to reclaim the difference but they will still lose money in the recovering process (fee to be paid).*

In our opinion, it is neither feasible nor appropriate to account for "recovering fees for specific treatment of gains and losses" in the calculation of the ongoing charges figure. Recovering fees as described by the ESAs would be incurred in the tax recovery process initiated by the investor. Hence, such fees do not apply at the fund level, but at the level of the individual investor. Moreover, the amount of fees might considerably vary depending on the fund investor's domicile, the foreign tax rules and the specificities of the recovery procedure applicable in the relevant third country. In the end, such fees might even not be applicable at all if the investor fails to initiate the recovery process or has no access to the recovery process in a specific jurisdiction.

For the said reasons, subparagraph (d) should be deleted from the list of ongoing charges.

Q28: *This list is taken from the CESR guidelines on cost disclosure for UCITS. What is missing in the case of retail AIFs (real estate funds, private equity funds)?*

In the case of private equity funds, would it be relevant to include a breakdown of flows, distinguishing those ("out") paid by the fund for the proper functioning of its financial portfolio management from those ("in") paid by the target company for the provision of advisory services. This breakdown would allow to clarify real costs for investors (instead of only indicating the net amount), knowing that "in" will be deducted from "out").

In the case of costs of distribution, would this need to be detailed depending on the type of costs of distribution? To what extent are these costs different from the distribution fees mentioned in the Entry costs above?

We are somehow confused by the phrasing of subparagraph (g) which refers to costs of distribution "to the extent that these payments are known to the PRIIP manufacturer". Clearly, any distribution costs agreed directly between the distributor and the investor should not be reflected in the ongoing charges of a product, even if such payments are known to the product provider. Hence, the list should comprise only costs of distribution which are paid by the PRIIPs manufacturer. Such costs can encompass e.g. retrocession payments to third party distributors in case such payments are legitimate under the applicable legal regime.

In this regard, however, it is important to note that retrocessions are generally not debited to the fund on a separate basis, but paid out of the management fee charged by the product manufacturer. In this case, it should be clear that such payments should not be accounted for twice and that inclusion of the management fee in the ongoing charges is sufficient.

The issue of double counting is pertinent also in relation to other cost items. Thus, we urge the ESAs to clarify in the general provisions concerning the cost section that as a matter of principle, cost items should be only included in the calculation if they are effectively charged to the fund and not covered by other cost positions. **Costs should in no case be accounted for twice.**

Q29: *Which are the specific issues in relation to this type of costs?*

As regards performance-related fees, we believe that this type of costs cannot be exactly asserted in an ex-ante disclosure. This means that the amount of performance fees disclosed may be misleading, as the application and the amount of the fee will be dependent on the future return of the fund. We thus believe that such incidental costs should be excluded from the on-going charges figures and rather be disclosed separately due to their incidental nature. Please also consider our answer to Q44 below.

Furthermore, we are of the view that financing costs should be limited to direct costs such as lending commissions, but should not include interest on borrowing. Borrowing and the related interest payments are part of the investment strategy and used as means for maximising returns. For this reason, interest on borrowing has been explicitly excluded from the payments accounted for in the UCITS cost calculations according to the CESR guidelines[4].

Q30: *Is it relevant to include this type of costs in the costs to be disclosed in the on-going charges? Which are the specific issues in relation to this type of costs? Which definition of costs for capital guarantee or capital protection would you suggest? (Contribution for deposit insurance or cost of external guarantor?)*

This cost item should only encompass explicit costs of guarantees/capital protection such as the purchase of a third party guarantee. Costs of hedging operations in the fund portfolio should not be taken into account, since these operations form an intrinsic part of the investment strategy. Hedging can be performed with various underlying concepts. For instance, capital protection in an equity fund can be ensured by means of a put option or within a dynamic protection approach ensuring capital preservation by larger holdings of low risk assets. In the first case, if the premium paid for the put option were regarded as cost, the ongoing charges would be significantly higher even though both concepts are

[4] Cf. para. 5(c) of the CESR's guidelines on the methodology for calculation of the ongoing charges figure in the Key Investor Information Document from 1 July 2010 (CESR/10-674).

equally capable of generating performance for the benefit of investors. In fact, the higher proportion of equity instruments in the portfolio protected by a put option might lead to higher net performance despite the additionally incurred cost of a premium. Thinking consequently, opportunity costs due in the portfolio partially invested in low risk assets would also need to be taken into account which is clearly not practicable.

Besides, we understand that the costs of concluding hedging transactions will be anyway accounted for as part of the transaction costs in a fund.

Q31: *Which are the specific issues in relation to this type of costs? Should the scope of these costs be narrowed to administrative costs in connection with investments in derivative instruments? In that respect, it could be argued that margin calls itself should not be considered as costs. The possible rationale behind this reasoning would be that margin calls may result in missed revenues, since no return is realized on the cash amount that is deposited, and that:*

i) No actual amount is paid to a third party. Hence, one could argue whether these should be defined as costs of investing from a fundamental point of view.

ii) It would be very challenging to quantify the actual missed revenue amount. Assumptions would be needed on the rate of return that would be realised on the deposited cash amount. Daily fluctuations in margin account balances will add to the complexity of required calculations.

We fully agree that margin calls in relation to derivative transactions should not be considered costs. The amount deposited with a clearing member/counterparty following a margin call represents collateral and will be returned to the fund in case the value of the derivative position recovers accordingly. Treating margin calls as costs would mean that the fund manager would need to estimate the actual missed revenue which is a nearly impossible exercise for an actively managed fund.

Therefore, it is in our view appropriate to limit the consideration of payments incurred in terms of holding of derivative instruments to administrative costs.

Q32: *Which are the specific issues in relation to this type of costs? Should this type of costs be further detailed/ defined?*

As regards the value of goods or services received in exchange for placing of dealing orders, we would like to point out that in the current market environment, such goods or services, above all research, are generally remunerated by means of broker commissions or implicit transaction costs in case of fixed-income transactions. Even though MiFID II will prompt modifications of the current market practices, its implications on the execution of orders for investment funds still cannot be fully assessed. Firstly, management of investment funds is formally not a MiFID activity and hence will not be directly impacted by the new unbundling standards to be introduced under MiFID II. Secondly, the issue of bundled payments will remain relevant in relation to transactions executed by third country brokers who must not be expected to voluntarily submit to the MiFID rules. Thirdly, it is still unresolved how costs for research in relation to fixed income products can be calculated since there is currently no pricing mechanism.

On balance, and in line with our general request above, we ask the ESAs to clarify that research costs and the value of other goods and services should not be accounted for on separate terms if it is already included in the calculation of the relevant transaction costs.

Q33: *How to deal with the uncertainty if, how and when the dividend will be paid out to the investors? Do you agree that dividends can be measured ex-post and estimated ex-ante and that estimation of future dividends for main indices are normally available?*

Before commenting on the issue of dividends, we would like to raise ESAs' attention to a number of issues in relation to the cost items listed in the preceding subparagraphs:

- The wording of subparagraphs (n) to (p) seems erroneous, since it refers to "costs of acquiring or disposing" of certain investments, whereas the explanatory text implies that the costs of holding those investments shall be taken into account. Specifically, in the case of target fund investments (subparagraph (n)), the total expense ratio or RIY figure of the underlying fund shall be included in the ongoing cost calculation. The costs of acquiring or disposing of assets on the other hand are attributable to transaction costs and specifically discussed below. Hence, we believe that the wording of subparagraphs (n) to (p) should be amended in order to avoid confusion.

- In relation to subparagraph (n), we welcome the general approach to use the CESR's guidelines for calculation of the ongoing charges figure for UCITS as a starting point. However, the lack of a common understanding under the CESR's guidelines as to when a UCITS invests a "substantial proportion" in other funds has led to diverging interpretations by the national authorities which in turn has hampered the comparability of the ongoing charges figures displayed in the UCITS KIID. In order to avoid similar problems for the PRIIPs KID, we suggest that "substantial proportion" of fund investments be further defined. In our view, only funds investing more than 20% of their assets in units or shares of other funds should be deemed to have invested a "substantial proportion" which merits the inclusion of target funds' costs in the ongoing cost calculation.

- Concerning earnings from efficient portfolio techniques (subparagraph (r)), we have some difficulties in treating the portion of such earnings retained by the fund manager/lending agent as costs if the additional revenues accrued to the fund as a result of efficient portfolio techniques are not adequately disclosed to investors. On the other hand, we have to assume that securities lending costs incurred in a product will need to be accounted for as part of the aggregated cost figure under MiFID II[5].

  In any event, the ESAs should acknowledge that the proposed treatment of efficient portfolio techniques alongside with the recommended inclusion of transaction costs will lead to a situation where actively managed funds will potentially have to disclose significantly higher costs as compared to passive products. In our view, this competitive disadvantage should be able to be compensated by a more realistic presentation of possible performance. In particular, funds using efficient portfolio techniques should be able to account for their effects in terms of performance in the context of performance scenarios (for more detail, cf. our response to Q15 and 17 above).

Coming back to the specific question, we strongly disagree with the proposed exclusion of dividends in the cost calculation. Since dividend payments are accrued to the portfolio in case of investment funds, the issue should be of primary relevance for structured products and clearly discussed in

[5] Cf. Article 57 para. 2 in connection with Annex II, table 2 of the MiFID II Level 2 draft dated 13. May 2015.

this context. In any event, the purpose of the PRIIPs KID is to achieve comparability between different product wrappers for similar investments. Investors wishing to invest e.g. in an equity index via a fund or a structured note would be entirely misled and deprived of a sound comparison basis if missing dividends are not accounted for in the cost calculation of the latter. Moreover, the discussed formal consideration of products on the basis of beneficial ownership disregards the realities at the point of sale. It is clear that retail investors will be generally not able to assess whether or not he will be a legal or beneficial owner of the underlying assets when purchasing an investment product. The PRIIPs KID must accommodate these information asymmetries by ensuring a meaningful and comparable disclosure of product costs. In our view, accounting for the missing dividends in the RIY calculation as suggested on pages 107-108 of the Discussion Paper would represent an appropriate solution (cf. our answer to Q94 below).

Transaction Costs

Q34: *Is this description comprehensive?*

In our opinion, the description of possible issues with disclosure of transaction costs is comprehensive. In particular, we share the ESAs' assessment that transaction costs will potentially be higher for actively managed funds. In this context, it should be noted that the higher overall costs might result in a competitive disadvantage for actively managed products especially if potential corresponding higher yields cannot be adequately disclosed to investors. Therefore, it is crucial that the standards on performance scenarios accommodate a realistic illustration of the performance prospects anticipated in a product (for details, cf. our reply to Q15 and 17 above).

Furthermore, we support the notion that disclosure of transaction costs should be ensured on equal terms also for insurance-based PRIIPs and structured products. In this regard, it is essential to adequately capture transactions incurred in the management of an insurer's cover assets and in the hedging operations relevant to structured products in the cost calculations discussed for these types of PRIIPs.

Nonetheless, one remaining risk relates to the potential lack of proper understanding of transaction costs by retail investors. It is essential to recognise that higher transaction costs do not make a fund more expensive, but simply reflect a specific investment strategy. In addition, there is no incentive for the asset manager to turn the portfolio other than pursuing this investment strategy. Transaction costs do not benefit the asset manager; they are earned by brokers and/or trading venues. Hence, an asset manager has an incentive to keep transaction costs as low as possible and only to trade if he believes that this will increase the investment performance, thereby exceeding transaction costs, since transactions costs reduce the fund's NAV and thus negatively impact the calculation basis for the management fee. Without transactions, however, an investment strategy cannot be executed. Therefore, an undue focus on transaction costs might contaminate the strategy and create undesirable incentives not to trade. If the investment decisions are good, higher transaction costs will deliver better net returns to investors. In contrast, ongoing charges will always erode those returns. **Therefore, we are in favor of disclosing transaction costs as a separate indicator alongside the ongoing charges figure.**

Q35: *Can you identify any difficulties with calculating and presenting explicit broker commissions? How can explicit broker commissions best be calculated ex-ante?*

We do not see any particular difficulties with calculating explicit broker commissions if applying the general approach that ex-ante estimates of costs can be established on the basis of ex-post figures. However, a competitive disadvantage for actively managed products must be avoided due to the encompassing approach to cost calculation, but the lack of an equally encompassing and satisfactory approach to the presentation of performance.

Q36: *How can the total of costs related to transaction taxes best be calculated? How should this be done to give the best estimate ex-ante? Are there other explicit costs relating to transactions that should be identified? Do you think that ticket fees (booking fees paid to custody banks that are billed separately from the annual custodian fee paid for depositing the securities) should be added to this list?*

Should transaction taxes be accounted for as part of the overall transaction costs, we believe that it should be done on the basis of ex-post figures where available or otherwise on the basis of reasonable estimates. Estimates would need to be used in particular if financial transaction tax be introduced in future in a number of EU markets or if changes occur in respect of the existing transaction tax rates.

We do not think that ticket fees should be added to the list because they are already included in paragraph (a) on page 54 of the Discussion Paper. This requires all payments made to custodians to be included in the amount disclosed as ongoing charges, regardless of the basis on which they are calculated.

Q37: *As regards the above mentioned estimate, can the fair value approach be used?*

We reject the use of the fair value approach, or in fact, of any approach for individual estimation of broker commissions incurred in the bid-ask spread. In our view, such non-standardised approach to cost calculation would be prone to manipulations and, more importantly, might severely impair comparability of cost disclosure in the PRIIPs KID.

Q38: *Can you identify any other difficulties with calculating and presenting the bid-ask spread? Do you believe broker commissions included in the spread should be disclosed? If so, which of the above mentioned approaches do you think would be more suitable for ex-ante calculations or are there alternative methods not explored above?*

Generally, we do not believe that it is possible to stipulate exactly the portion of a bid-ask spread that represents a broker commission. Hence, it must be clear that any numbers flowing into the calculation of a summary indicator or the overall cost figure are pure estimates and should not be misrepresented as exact costs.

Nevertheless, it is quite clear that the PRIIPs KID must account for an estimated amount of implicit transaction costs in order to provide an adequate basis for disclosure of the aggregated cost figure at the point of sale. Under MiFID II, distributors will be required to comprise all costs related to transactions, including marks-up embedded in the transaction price, in the aggregated disclosure of product and service costs[6].

[6] Cf. Article 56 para. 2 in connection with Annex II table 2 of MiFID II Level 2 draft dated 13 May 2015.

Therefore, on balance, we favour option iii. based on a centrally designed table for estimation of transaction costs embedded in bid-ask spreads. This option is able to ensure comparability of the relevant cost information by introducing a standardised approach to computing implicit broker commissions. However, under this option, it would be pivotal to correctly calibrate the table as wrong calibrations could discriminate products with specific investment focus, e.g. funds investing in emerging market bonds. The table should be established by the authorities, i.e. ESMA, on the basis of market data to be collected under the new MiFIR transaction reporting regime. It should be updated in a regular, probably annual, manner in order to fit into the regular revision cycle of the KID. Moreover, as spreads vary according to the volume of a transaction, it should be more appropriate to estimate broker commissions in terms of fixed basis points per transaction, not in relation to the spread as currently suggested.

As regards the other options considered in the Discussion Paper, option i. assuming a fundamental change of the pricing practice prevailing in the market is unrealistic, especially for non-EU markets not affected by the evolvements under the MiFID II reform. Option ii. might interfere with comparability of cost disclosure and has to be rejected for that reason (cf. our comments on Q37 above).

Q39: *Do you believe that market impact costs should be part of the costs presented under the PRIIPs regulation? If so, how can the market impact costs best be calculated? How should this be done to give the best estimate ex-ante?*

We are clearly of the view that market impact should not be considered costs. According to the description in the Discussion Paper, market impact reflects the change in the market price due to supply/demand imbalances as a result of a trade and hence, should be rather assessed as part of market risk if a transaction as such moves the market. Also under MiFID II, costs "caused by the occurrence of the underlying market risk" shall be excluded from the aggregated cost calculation[7]. This means that market impact does not flow into the aggregated cost disclosure under MiFID II and consequently, should not be included in the figures to be presented in the PRIIPs KID which must provide a suitable basis for MiFID-compliant calculations at the point of sale.

Furthermore, the assertion of wrong incentives at the top of page 63 does not reflect the reality. Asset managers are generally interested in the most cost-efficient way of executing transactions and would certainly not split up orders in order to incur smaller spreads in case such proceeding might negatively impact the overall performance of a fund. The ESAs should recognise that past performance is one of the key competitive features in the fund market and until now a decisive element of any investment decision relating to investment funds. Besides, the orders are generally split into smaller transactions precisely for the purpose of reducing the potential market impact of fund trades.

Q40: *How should entry- and exit charges be calculated considering the different ways of charging these charges? How should this be done to give the best estimate ex-ante? Can you identify any other problems related to calculating and presenting entry- and exit fees?*

According to our understanding, the costs of acquiring or disposing of fund units have already been dealt with on pages 56 and 57 of the Discussion Paper. Though we suggest rephrasing the relevant passages, it seems clear to us that any explicit entry or exit fee that has to be paid when investing or disinvesting in a target fund must be part of the ongoing charges figure. The passage here deals with some types of non-explicit, "indirect" entry or exit charges. In our view, the suggested inclusion of those

[7] Cf. Article 24 para. 4 second subparagraph of MiFID II.

indirect entry and exit charges incurred at the target fund level would prompt very complex calculations. This pertains especially to target funds applying swing pricing mechanisms in the computation of their unit prices. Since the models underlying swing pricing calculations are not standardised, but generally developed in-house by fund managers, it is not possible to establish the amount of net transaction costs passed over to investors for third party funds. Other charges such as dilution levy apply only subject to specific conditions which cannot be reasonably assumed for the purpose of ex-ante disclosure.

Due to these difficulties, we are against the specific inclusion of indirect entry and exit costs incurred at the target fund level in the calculation of a fund's transaction costs. In any case, net in- or outflows covered by swing pricing should be excluded from such calculations.

***Q41:** Which other technical specifications would you suggest adding to the abovementioned methodology? Which other technical issues do you identify as regards the implementation of the methodology?*

We support the hybrid approach as a pragmatic solution to the required computation of the overall transaction costs. Specifically, we would suggest to base the calculation on actually incurred costs where those costs can be established and to estimate implicit broker commissions with reference to a centrally designed table (cf. our reply to Q38 above).

In terms of the calculation methodology, we agree with the principle-based approach as described on page 67 of the Discussion Paper. However, the method for calculating the Average Transaction Cost is not yet complete and should be supplemented by a division by the absolute number of transactions:

> *"The Average Transaction Cost would be calculated as the sum of explicit costs such as taxes and commissions and implicit costs such as spreads* ***divided by the absolute number of transactions****."*

Moreover, in our view, the specifics of the relevant calculation methodology should be stipulated by supervisory guidelines at Level 3 and not form part of the RTS in order to allow for smooth and prompt adaptations in detail if deemed necessary. The same pertains to the proposed approach to the calculation of performance fees (cf. our reply to Q44 below).

Performance Fees

***Q42:** Do you think that an explicit definition of performance fees should be included? Do you think the definition by IOSCO is relevant in the specific context of the cost disclosure of the PRIIPs Regulation?*

Since other cost items are also not explicitly defined, we see no need to include an explicit definition of performance fees for the purpose of the KID disclosure. It should be sufficient to describe performance fees in a general manner, e.g. by referring to the first sentence of the cited IOSCO definition:

> *"A performance fee is a variable fee linked to the performance of a fund."*

In any case, it should be considered out of scope of the PRIIPs Regulation to introduce a definition of performance fees which potentially impacts certain calculation models or favours one model above

others as currently envisaged in the IOSCO Consultation Report. The regulatory aim of the PRIIPs implementing measures is the achievement of comprehensive cost disclosure, not limitation of legitimate fee structures in investment funds.

***Q43:** What would be the appropriate assumption for the rate of returns, in general and in the specific case of the calculation of performance fees?*

We do not believe that the rate of returns can be reasonably assumed in general terms. Given the diversity of PRIIPs and the underlying investment strategies, an assumed rate of returns would at least need to reflect the assumed growth in the underlying assets and potentially be adjusted to the relevant market conditions which makes the assumption and its updates a very complex exercise (cf. our reply to Q4 above).

In our view, calculation of performance fees should be linked to the section on performance scenarios in order to provide investors with meaningful and consistent information. Specifically, it should be appropriate to base the calculation on performance generated in a historic scenario or in a positive/optimistic scenario depending on the concept chosen in the risk and reward section. Under this approach, investors could be provided with ex-ante estimates on performance fees while at the same time being able to relate the disclosure to a specific scenario and to evaluate the circumstances in which a performance fee would apply (for further details, see our answer to Q44 below).

***Q44:** Which option do you favor? Do you identify another possible approach to the disclosure and calculation of performance fees in the context of the KID?*

We have a clear preference for option 3, since this option is best suited to reflect the conditional nature of performance fees and thus can provide more accurate information on the fee structures applicable in investment funds. Option 2 treats performance fees only as a calculation item for the summary cost indicator and thus is not able to transmit any relevant information to investors. As regards option 1, we fear that the exclusion of performance fees from the cost section will not provide MiFID firms distributing PRIIPs with the necessary numbers to facilitate the aggregated disclosure of costs and charges. According to the draft implementing measures under MiFID II, distributors shall be required to include performance fees in the aggregated figure of product and service costs to be disclosed to investors[8].

In terms of the proposal for concrete computation of performance fees presented on pages 70-71, we would support computation on the basis of historical data provided that a performance scenario based on such historical data is shown in the risk and reward section. In our opinion, the reference period for such historical calculation should be not less than the last five years.

Concerning new funds or funds lacking a sufficient performance history, typically including closed-ended-funds, we have significant reservations against using the return of a “comparable fund” or of a “peer group” for estimating performance fee. Without further specification, this approach is prone to manipulation and might severely hamper the comparability of the performance fee figures presented in the KID. Instead, we would suggest computing the ex-ante estimates on the basis of the positive or optimistic scenario which would most probably trigger the application of a performance fee. In any case,

[8] Cf. Article 56 para. 2 in connection with Annex II table 2 of MiFID II Level 2 draft dated 13 May 2015.

a proper link to performance scenarios is necessary in order to provide for an adequate illustration of situations in which a performance fee might become relevant.

Lastly, the specifics of the methodology for computing the performance fee should be stipulated by supervisory guidelines at Level 3 and not form part of the RTS in order to allow for smooth and prompt adaptations in detail if deemed necessary.

3.1.2 Life-insurance products (p. 72)

Q45: *Which of the above mentioned options 1 and 2 for the calculation of aggregate costs would you prefer? Do you agree with above mentioned assumptions on the specificities of the costs of life-insurance products? How should the breakdown of costs showing costs specific to the insurance cover be specified? Do you think that risk-type riders (e.g. term or disability or accident insurances) have to be disregarded in the calculation of the aggregated cost indicator? How shall risk-type rider be defined in this context? (one possible approach might be: A risk-type rider in this context is an additional insurance cover without a savings element, which has separate contractual terms and separate premiums and that the customer is not obliged to buy as a compulsory part of the product).*

We have a strong preference for option 2 and indeed, deem option 1 incompatible with the principle of full cost disclosure under the PRIIPs Regulation. Since the premium paid for coverage of biometric risk is deducted from the invested amount and hence not able to generate returns for the benefit of the customer, it must be considered costs for the purpose of PRIIPs disclosure. Moreover, given that the additional insurance benefits financed by the biometric risk premium will be highlighted in the PRIIPs KID in the section featuring product description[9], it is only consequent to treat the corresponding premium payments as part of the overall product costs, especially as it is not possible in a life-insurance contract to purchase the investment element without the insurance cover. Investors conclude life insurance contracts for various reasons, some of them being conscious of the additional risk cover, others perceiving the contract as a product substitutable for other investments. Hence, in order to ensure effective investor protection, we deem it crucial to stick to the principle that all deductions from the invested amount in a PRIIP are considered costs and flow into the aggregated cost disclosure in the PRIIPs KID. This pertains also to products with biometric risk coverage inherently embedded in the product structure.

A different approach under option 1 would open the door for manipulations as it would allow shifting cost components to the risk cover and thus disguise the genuine investment costs. Life insurance contracts would appear artificially cheaper which would create a competitive disadvantage for other PRIIPs and more importantly, undermine effective protection of investors.

On the other hand, we concur that “risk-type riders” as described in the Discussion Paper could be disregarded in the calculation of the aggregated product costs if the additional insurance cover is based on separate contractual terms, is financed by separate premiums and does not constitute a compulsory element of the product. However, in this case the additional insurance benefits purchased on separate terms should also not be reflected in the “What is this product” section in the PRIIPs KID.

Q46: *Do you think this list is comprehensive? Should these different types of costs be further defined?*

[9] Cf. Article 8 para. 3(c)(iv) of the PRIIPs Regulation.

In some events, it should be quite difficult to establish costs of a guaranteed interest rate for future premiums. In line with the approach suggested for investment funds, we think that the basis for cost calculation should only include explicit guarantee costs.

It is important to note that insurance companies sometimes charge additional fees in specifically defined events. These could pertain e.g. to direct debit return, issuance of a substitute policy, contractual amendments, divorce, termination, provision of information in writing etc. These fees can be charged as fixed amount, a (capped) percentage of the initial investment, a percentage of the premium payment or with reference to other values. Since the investor is often unable to assess potential impact of such additional fees, they should be accounted for as part of the product cost disclosure.

Q47: *Do you agree that guaranteed interest rate and surrender options should be handled in the above mentioned way? Do you know other contractual options, which have to be considered? If yes how?*
Q48: *Should the methodology for the calculation of these costs be further specified?*

First of all, we disagree with the assertion that costs of embedded options or guarantees do not represent a "loss" for the investor like "other kinds of costs" since the investor get a benefit in exchange which materialises in certain scenarios. We would assume that investors always receive some benefits in exchange for the paid charges and that otherwise such charges would be illegal. For example, in case of investment funds, investors obtain the benefit of professional asset management in exchange for the management fee or revenues from securities lending in exchange for the fees paid to a lending agent. In any case, should costs of embedded options or guarantees be disregarded for insurance products, then the same should apply for consistency reasons to structured products and investment funds. However, for those two product types, costs of capital guarantee or capital protection are proposed to be accounted for in the aggregated cost disclosure. In order to ensure consistency throughout all PRIIPs, insurance products must not be treated differently in this regard.

As a matter of principle, we deem it crucial that all deductions from the invested amount in a PRIIP are considered costs and flow into the aggregated cost disclosure in the PRIIPs KID (cf. also our reply to Q45 above).

With regard to surrender options, we believe it is appropriate to account for the corresponding costs by computing an aggregated cost indicator such as RIY with reference to different time frames. Specifically, we think that investment periods of 1 year, 3 years, 5 years, 10 years and the PRIIP's lifetime or recommended holding period (if longer) should be covered. The calculation example for RIY on page 106 of the Discussion Paper provides a suitable illustration of such tiered disclosure which should generally apply to all PRIIPs. In case of life insurance products, surrender costs falling due after such illustrative holding periods would need to be included in the relevant calculations.

Q49: *Do you think this list and breakdown is comprehensive?*
Q50: *Should the methodology for the calculation of these costs be further specified? How?*

In our view, the list of ongoing costs is far from being comprehensive. Contrary to the fund sector where types of charges are largely standardised and therefore can be listed in an exhaustive manner, the structure of fixed and variable charges, some of them being conditional on certain events, differs significantly across the insurance market. We would suggest clustering potential ongoing costs in life insurance products into the categories "administrative costs", "investment costs" and "others". Insurance

companies should be required to assign all costs deducted from the invested amount to one of these categories and to take them into due account in the aggregated cost disclosure.

Furthermore, profit sharing between policyholders and the insurance company should not be allowed to be deducted from the overall costs if there is no guarantee for the amount of such deduction. In Germany, for instance, the mechanisms of profit sharing are totally opaque for investors and it is up to a discretionary decision of an insurance company whether and to what extent policyholders shall be allowed to participate in additional profits. Therefore, the amount of profit sharing which will be assigned to an individual policyholder cannot be reasonably simulated or otherwise assumed. This is particularly true at the point of sale, given that life insurance policies are generally long-term engagements concluded for a period of 20 to 30 years. Referring to such long time horizons, reasonable estimations of profit sharing are simply not possible and certainly cannot be derived from historical data. On the other hand, purely arbitrary estimates must by no means be included in the cost calculations, especially since the decision on profit participation remains at the discretion of the insurance company. It must also be noted that allowing for deduction of purely voluntary cost reductions in case of life insurance contract would discriminate against other products. In case of investment funds, for instance, the full amount of a front-load fee shall be included in the cost calculations even if such fee is regularly reduced or even not charged at the point of sale.

In consequence, it should not be permissible to reduce the amount of costs disclosed in the PRIIPs KID by deducting potential shared profits as long as investors cannot count on such cost reduction. If profit participation can be reasonably anticipated for a product, it could be accounted for in the simulation of performance scenarios in line with the general approach chosen in the risk and reward section.

Q52: *Should the methodology for the calculation of these costs be further specified?*

As suggested in our reply to Q47 above, we deem it appropriate to account for costs of surrender options and possibly other exit costs by computing an aggregated cost indicator such as RIY with reference to different time frames. Specifically, we think that investment periods of 1 year, 3 years, 5 years, 10 years and the PRIIP's lifetime or recommended holding period if longer should be covered. The calculation example for RIY on page 106 of the Discussion Paper provides a suitable illustration of such tiered disclosure which should generally apply to all PRIIPs. In case of life insurance products, surrender costs falling due after such illustrative holding periods would need to be included in the relevant calculations.

Q53: *Should the methodology for the calculation of these costs be further specified? How? Do fund related costs also exist for with profit life insurance products?*

Fund related costs exist also for classical with-profit life insurance products. In these cases, investment funds are used as vehicles for managing the cover pool assets of an insurance company. We think that all costs related to fund management should be pro-rata accounted for in the calculation of "investment costs" in line with our response to Q49 and Q50 above.

Q54: *How to ensure that the look-through approach is consistent with what is applied in the case of funds of funds?*

In our opinion, a full consistency with the approach applied in case of funds of funds is neither necessary nor appropriate. Funds of funds are actively managed vehicles which hold diversified investments in target funds and make new investments or dispose of their holdings depending on relevant market developments. In case of unit-linked life insurance products, on the other hand, investors generally decide to invest in one specific fund, or a limited number of funds, and hold these investments for a rather long time. Therefore, it should be reasonably expected that a unit-linked life insurance product accounts for all costs of the underlying fund investment, possibly on an illustrative basis, in the aggregated cost disclosure to be provided in the PRIIPs KID.

Q55: *Should the methodology for the calculation of these costs be further specified?*

We do not understand the statement in the Discussion Paper. A structure where "investments in shares of real estate funds may be remunerated as dividends" is not known to us. We do not see any reason why real estate target funds should at that point be treated differently from other target funds. In any case, the indicated issue is of no relevance in Germany, as it is impracticable to invest in real estate funds via unit-linked insurance contracts due to the liquidity restrictions inherent in such investments.

Q56: *Which above mentioned or further options do you support, and why? More generally, how to measure costs that are passed to policy holders via profit participation mechanisms? Would you say that they are known to the insurance company? Do you think an estimate based on the previous historical data is the most appropriate methodology for the calculation of these costs?*

We strongly reject deduction of any profits that may be possibly passed to investors via profit participation mechanisms from the aggregated cost figure in case the amount of such deduction is not guaranteed. As explained in our reply to Q50 above, the mechanisms of profit sharing are totally opaque for investors and it is up to a discretionary decision of an insurance company whether and to what extent policyholders shall be allowed to participate in additional profits. Therefore, the amount of profit sharing which will be assigned to an individual policyholder cannot be reasonably simulated or otherwise assumed. This is particularly true at the point of sale, given that life insurance policies are generally long-term engagements concluded for a period of 20 to 30 years. Referring to such long time horizons, reasonable estimations of profit sharing are simply not possible and certainly cannot be derived from historical data. On the other hand, purely arbitrary estimates must by no means be included in the cost calculations, especially since the decision on profit participation remains at the discretion of the insurance company. It must also be noted that allowing for deduction of purely voluntary cost reductions in case of life insurance contracts would discriminate against other products. In case of investment funds, for instance, the full amount of a front-load fee shall be included in the cost calculations even if such fee is regularly reduced or even not charged at the point of sale.

In consequence, it should not be permissible to reduce the amount of costs disclosed in the PRIIPs KID by deducting potential shared profits as long as investors are generally not entitles to such cost reduction. If profit participation can be reasonably anticipated for a product, it could be accounted for in the simulation of performance scenarios in line with the general approach chosen in the risk and reward section.

Q57: *Is this type of costs really specific to with-profit life-insurance products? Do you agree that these costs should be accounted for as on-going costs?*

We agree that costs for managing capital investments should be fully reflected in the calculation of ongoing costs for life insurance products. In Germany the cost for managing the cover pool assets are not made transparent to the end investor, even though these costs are known and reported to the regulator. Therefore, investors are currently not able to properly compare an investment fund to the collective investment offered by a life insurance contract as the latter gives the impression of being free of any cost in terms of asset management. As explained in our replies to Q45 and Q47 above, all deductions from the invested amount in a PRIIP should be considered costs and should flow into the aggregated cost disclosure in the PRIIPs KID.

Q58: *Do you think the list of costs of life-insurance products presented above is comprehensive? Which types of costs should be added?*

As indicated in our answers to Q49 and Q50 above, we do not think that the list of costs in terms of life insurance products presented in the Discussion Paper is, or can ever reasonably be, comprehensive. In view of the various charging structures applied in the insurance sector, we would suggest to cluster potential ongoing costs in life insurance products into the categories “administrative costs”, “investment costs” and “others”. Insurance companies should be required to assign all costs deducted from the invested amount to one of these categories and to take them into due account for the purpose of the aggregated cost disclosure.

Moreover, surcharges for certain payment modes should be reflected in the calculations if they apply to the method of premium payment typically chosen in a product.

3.2 Aggregating the costs

Q80: *What should be the value of x? (in the case of UCITS, x=5, but the extent to which this is appropriate for other types of PRIIPs, notably life-insurance products, is unclear).*

In our view, the record-keeping period of five years is appropriate not only for UCITS, but for all open-ended investment funds. In case of closed-ended AIFs and other PRIIPs issued for a fixed term, we think that records should be kept for the entire lifetime of a product since the reasonability of cost calculations and the underlying assumptions can be properly assessed only after its expiry.

Q81: *Should this principle be further explained / detailed? Should the terms “rank pari passu” be adapted to fit the different types of PRIIPs?*

The “pari passu” principle is already determined in the CESR Guidelines on the methodology for calculation of the ongoing charges figure for UCITS. From the practical experience of our members, we do not see the need for further explanation or adaptation of this principle as regards its application to retail AIFs.

Q82: *What should be the relevant figure for the initial invested amount to be taken into account for the calculation of cost figures? Should a higher initial investment amount be taken into account not to overestimate the impact of fixed costs? How should the situation of products with regular payments be taken into account for that specific purpose? (Would an invested amount of 1 000 euros per period of time be a relevant figure?)*

We believe that the initial invested amount assumed for the calculation of cost figures should be at least broadly representative for the typical average investment. In this regard, it might make sense to distinguish between products typically sold as one-off investments and products typically invested via regular instalments. Under this approach, investment funds for instance should base their cost calculations on a lump sum investment even though it is also possible to invest in funds through saving plans.

In light of the practical experience of our members as regards typical lump sum investments, it should not be appropriate to assume an initial investment lower than EUR 5,000 in case of investment funds.

3.2.1 Summary indicators

3.2.1.1 Total Cost Ratio (TCR)

Q84: *Do you agree with the abovementioned considerations? Which difficulties do you identify in the annualisation of costs?*

We agree with the ESAs' considerations relating to the "Total Cost Ratio" approach and perceive no specific difficulties in the annualisation of entry or exit costs such as front-load fees in case of investment funds (subject to our responses to Q85 and 86 below).

Q85: *Which other assumptions would be needed there? In the case of life-insurance products, to what extent should the amortization methodology related to the amortization methodology of the premium calculation? To what extent should the chosen holding period be related to the recommended holding period?*

The assumed holding period for amortisation of entry or exit costs should obviously match the assumed holding period for the overall cost disclosure. We believe that disclosure of costs in the PRIIPs KID should be based on a number of standardised time horizons in order to provide comparable information on product costs relating to short-, medium- and long-term investments. In this regard, investment periods of 1 year, 3 years, 5 years, 10 years and the PRIIP's lifetime or recommended holding period if longer should be covered. If such differentiated information is deemed too complex, we think that cost disclosure could focus on the timespans of 1 year, 5 years and 10 years (or the product lifetime/recommended holding period).

Concerning the amortisation methodology, we are of the view that a linear methodology would be appropriate for most investment funds.

Funds

Q86: *This definition of the ratio is taken from the CESR guidelines on cost disclosure for UCITS. Is it appropriate also in the case of retail AIFs? Should it be amended? Another approach to calculate these costs is to calculate the ratio of the total of these amortized costs to the invested amount in the fund. However in that case the question remains as to how to aggregate this ratio with the on-going charges ratio. Another possible approach could be to use the ratio between the total amount of costs over the holding period and the average net investment (assumed during the whole period, in order to take into*

account future additional investments, partial withdrawals, payments (i.e. programmed investments or disinvestments)). Do you think this approach would be appropriate?

We are unsure from which CESR Guidelines the ESAs have taken the definition of the entry-exit cost ratio. The only relevant CESR Guidelines pertain to the calculation of the ongoing charges figure for UCITS and in this context, define the ratio of ongoing charges as a percentage of the average net assets of a fund[10].

In any case, calculation of amortised entry or exit costs in relation to the average NAV is in our view the only feasible option for ensuring proper aggregation with the ongoing cost ratio. Any other calculation method would not suit that purpose. Nonetheless, we appreciate the fact that information on what part of the initially paid amount is being deducted as costs and actually not invested on investor's behalf is of relevance for taking an informed investment decision and should be included in the cost section. This should pertain not only to UCITS and retail AIFs featuring a UCITS-like KIID which already clearly disclose the maximum percentage of the up-front fee, but also, and probably in particular, to other investment products.

Life-insurance products

***Q87:** What would be other options to define the TCR ratio in the case of life-insurance products? What about the case of regular payments or regular increasing? Which definition would you favour? How to ensure a level playing field and a common definition with the other types of PRIIPs in this regard? Another possible approach could be to use the ratio between the total amount of costs over the holding period and the average net investment (assumed during the whole period, in order to take into account future additional investments, partial withdrawals, payments (i.e. programmed investments or disinvestments)). Do you think this approach would be appropriate? To what extent do these possible calculation methodologies fit the case of insurance products with regular payments?*

We would like to reiterate our assessment provided in the context of Q86 above that calculation of amortised entry or exit costs in relation to the average NAV is the only feasible option for ensuring proper aggregation with the ongoing cost ratio. Any other calculation method would not suit that purpose. Nonetheless, we appreciate the fact that information on what part of the initially paid amount is being deducted as costs and actually not invested on investor's behalf is of relevance for taking an informed investment decision and should be included in the cost section.

Structured products & SPVs

***Q88:** What would be other options to define the TCR ratio in the case of structured products? Do you identify other specific issues in relation to the TCR if applied to structured products? Another possible approach could be to use the ratio between the total amount of costs over the holding period and the average net investment (assumed during the whole period, in order to take into account future additional investments, partial withdrawals, payments (i.e. programmed investments or disinvestments)). Do you think this approach would be appropriate? For derivatives, it might be the case that it is necessary*

[10] Cf. CESR Guidelines on the methodology for calculation of the ongoing charges figure in the Key Investor Information Document from 1 July 2010 (CESR/10-674), para. 10.

to further define the concept of investment to be used as denominator of the ratio. Possibilities include the use of the actual sums paid and received (i.e. initial margins, variation margins, collateral postings, various payoffs, etc.) or the use of the exposure (i.e. market value of the derivative underlying). Do you think these approaches would be appropriate?

We would like to reiterate our assessment provided in the context of Q86 above that calculation of amortised entry or exit costs in relation to the average NAV is the only feasible option for ensuring proper aggregation with the ongoing cost ratio. Any other calculation method would not suit that purpose. Nonetheless, we appreciate the fact that information on what part of the initially paid amount is being deducted as costs and actually not invested on investor's behalf is of relevance for taking an informed investment decision and should be included in the cost section.

On-going charges

Funds

Q89: *This definition of the ratio is taken from the CESR guidelines on cost disclosure for UCITS. Is it appropriate also in the case of retail AIFs? Should it be amended? Another possible approach could be to use the ratio between the total amount of costs over the holding period and the average net investment (assumed during the whole period, in order to take into account future additional investments, partial withdrawals, payments (i.e. programmed investments or disinvestments)). Do you think this approach would be appropriate?*

We are convinced that the ratio of total ongoing costs to the average net assets of a fund represent a reasonable measure of charges. If calculated on the basis of an assumed initial investment and in absolute terms, this ratio will also express the relation between the total costs and the invested amount (possibly modified by a certain assumed annual growth rate). We do not deem it reasonable to try to reflect some kind of individual investment patterns e.g. by accounting for hypothetic additional investments or withdrawals in the general information on product costs to be provided in the PRIIPs KID.

Q90: *These different aforementioned principles are taken from the CESR guidelines on cost disclosure for UCITS. Is it also appropriate in the PRIIPs context?*

In our view, the described methodology for calculation of the TCR in case of investment funds is still appropriate in the PRIIPs context. However, for comparability reasons and in order to ensure smooth aggregation of costs for all types of PRIIPs, we favour calculation of Reduction in Yield (RIY) as envisaged in the next section of the Discussion Paper.

Life-insurance products

Q91: *To what extent do the principles and methodologies presented for funds in the case of on-going charges apply to life-insurance products?*

In case the ongoing charges are based on the NAV or the relevant redemption price, the principles and methodologies for calculation of the TCR could also apply to life-insurance products.

3.2.1.1 Reduction in Yield (RIY)
Funds

Q93: *Do you identify any specific issue in relation to the implementation of the RIY approach to funds?*

Generally, we recognise the difficulties highlighted by the ESAs in transferring the TCR concept to insurance and structured products. In order to ensure smooth aggregation of costs for all types of PRIIPs and to properly account for the timing aspect in terms of cost deductions, we thus support using the RIY approach for the purpose of an aggregated cost disclosure.

The RIY figure has been used in Germany for several years as a key cost indicator for private pension products (so-called Riester pensions) which encompass investment funds, banking products and life insurance contracts. Due to the positive experience gained in this context, the German regulator/legislator extended the disclosure of RIY as a statutory standard to all insurance products in January 2015. In the context of PRIIPs, we do not perceive any specific issues in relation to the implementation of the RIY approach to investment funds. When taking a wider perspective, it will be essential to introduce a stringent calculation methodology for RIY in order to warrant comparability of cost figures disclosed to investors.

As regards the specific example of a RIY type disclosure provided on page 106 of the Discussion Paper, we would like to observe the following:

- Information on RIY should refer to different time periods in order to better illustrate to investors the effect of charges over time as well as the financial consequences of early withdrawal e.g. in case of life insurance products.

- The return rate assumed for calculation purposes should be linked to performance scenarios in order to ensure consistency of information and account for different return expectations of investment products. In principle, we think that a neutral or most probable scenario, depending on the approach chosen in the risk and reward section, would represent a suitable basis for calculating RIY. However, a solution needs to be found for products charging a specific performance fee. Since a performance fee will normally not accrue in a neutral market scenario, it should be more appropriate to calculate that fee on the basis of a positive scenario and to show the relevant charge on separate terms without capturing it in the RIY calculations (cf. also our response to Q44 above). Another possibility would be to base the RIY calculation on two different performance scenarios one of which triggers the performance fee charge. Since such two sets of RIY figures might confuse investors and would necessarily expend valuable space in the PRIIPs KID, the first alternative appears preferable from our perspective.

- As explained in our response to Q82 above, it could make sense to make different calculations for products typically sold as one-off investments and products financed by regular instalments. In any case, for investment funds it should not be appropriate to assume an initial investment lower than EUR 5,000.

Furthermore, in addition to the RIY numbers, we deem it important that the PRIIPs KID comprises separate indicators for different types of costs which should be presented in percentage terms. Especially, as pointed out in our reply to Q34 above, it is essential to ensure that the relevance of transaction costs can be properly assessed by retail investors. An undifferentiated inclusion of transaction costs in the

aggregated cost figure could potentially create incentives for fund managers to avoid carrying out transactions in order to keep transaction costs down, even if such suppressed trading activity is contrary to the investors' interests. Therefore, we recommend inclusion of a separate indicator for transaction costs alongside the ongoing cost indicator before merging the two (and other cost elements) into an aggregated figure.

On balance, we deem it reasonable in case of investment funds to distinguish between entry/exit costs, ongoing charges, transaction costs and performance fees in order to give investors an overview on how those cost categories contribute to the overall cost indicator.

Structured products

Q94: *In addition to the abovementioned issues and the issues raised in relation to TCR when applied to structured products, do you identify any other specific issue in relation to the implementation of the RIY approach to structured products?*

We fully support the notion of adding missed dividends in case of structured products to the original investment value in order to account for the corresponding yield reduction in the RIY calculations. As emphasised in our reply to Q33 above, investors should be able to evaluate and compare unequal yield prospects for different PRIIPs pursuing similar investment strategies. Otherwise, investors wishing to invest e.g. in an equity index via a fund or a structured note would be entirely misled and deprived of a sound comparison basis for their investment decision if missing dividends are not accounted for in the cost calculation of the latter. Moreover, the discussed formal consideration of products on the basis of beneficial ownership disregards the realities at the point of sale. It is clear that a retail investor will be generally not able to assess whether or not he will be a legal or beneficial owner of the underlying assets when purchasing an investment product. Given that the very purpose of the PRIIPs KID is to achieve comparability between different investment wrappers, it is compelling that these information asymmetries are accommodated by a meaningful and comparable disclosure of product costs.

3.2.1.4 Cumulative effects of costs

Q95: *Do you agree with the above-mentioned assessment? Should the calculation basis for returns be the net investment amount (i.e. costs deducted)? Do you identify specific issues in relation to the calculation per se of the cumulative effect of costs?*

If we understand correctly, the disclosure of the cumulative effect of costs required by the Level 1 text shall be covered by specification of the aggregated cost indicator such as RIY or TCR in monetary terms (e.g. the third column in the table on page 106). We agree with this assessment.

As regards assumption on the rate of returns, we are of the view that such assumption in the cost section must be properly linked to performance scenarios in order to ensure consistency of information provided to investors. Generally, a neutral or most probable scenario, depending on the approach followed in the relevant calculations, should represent a suitable basis for the illustration of costs (for more details, cf. our reply to Q93 above).