



European Securities and
Markets Authority

Reply form for the Consultation Paper on PRIIPs Key Information Documents



Responding to this paper

The European Securities and Markets Authority (ESMA) invites responses to the specific questions listed in the ESMA Consultation Paper on PRIIPs Key Information Documents, published on the ESMA website.

Instructions

Please note that, in order to facilitate the analysis of the large number of responses expected, you are requested to use this file to send your response to ESMA so as to allow us to process it properly. Therefore, ESMA will only be able to consider responses which follow the instructions described below:

- use this form and send your responses in Word format (pdf documents will not be considered except for annexes);
- do not remove the tags of type <ESMA_QUESTION_PRIIPS_1> - i.e. the response to one question has to be framed by the 2 tags corresponding to the question; and
- if you do not have a response to a question, do not delete it and leave the text “TYPE YOUR TEXT HERE” between the tags.

Responses are most helpful:

- if they respond to the question stated;
- contain a clear rationale, including on any related costs and benefits; and
- describe any alternatives that ESMA should consider

Naming protocol

In order to facilitate the handling of stakeholders responses please save your document using the following format:

ESMA_ PRIIPS _NAMEOFCOMPANY_NAMEOFDOCUMENT.

E.g. if the respondent were XXXX, the name of the reply form would be:

ESMA_ PRIIPS_XXXX_REPLYFORM or

ESMA_ PRIIPS_XXXX_ANNEX1

To help you navigate this document more easily, bookmarks are available in “Navigation Pane” for Word 2010 and in “Document Map” for Word 2007.

Deadline

Responses must reach us by **29 January 2016**.

All contributions should be submitted online at www.esma.europa.eu under the heading ‘Your input/Consultations’.



Publication of responses

All contributions received will be published following the end of the consultation period, unless otherwise requested. **Please clearly indicate by ticking the appropriate checkbox in the website submission form if you do not wish your contribution to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure.** Note also that a confidential response may be requested from us in accordance with ESMA's rules on access to documents. We may consult you if we receive such a request. Any decision we make is reviewable by ESMA's Board of Appeal and the European Ombudsman.

Data protection

Information on data protection can be found at www.esma.europa.eu under the headings 'Legal notice' and 'Data protection'.



Introduction

Please make your introductory comments below, if any:

<ESMA_COMMENT_PRIIPS_1>

The **European Association of Co-operative Banks (EACB)**¹ welcomes the opportunity to contribute to the ESAs Joint Consultation paper on PRIIPs key information documents as cooperative banks are amongst the major distributors of a large variety of retail investment products.

The EACB is the voice of the cooperative banks in Europe. It represents, promotes and defends the common interests of its 31 member institutions and of co-operative banks in general. Co-operative banks form decentralised networks which are subject to banking as well as co-operative legislation. Democracy, transparency and proximity are the three key characteristics of the cooperative banks' business model. With 4,200 locally operating banks and 68,000 outlets co-operative banks are widely represented throughout the enlarged European Union, playing a major role in the financial and economic system. They have a long tradition in serving 205 million customers, mainly consumers, retailers and communities. The cooperative banks in Europe represent 78 million members and 860,000 employees and have a total average market share of about 20%.¹

The EACB has responded both to the Joint Discussion Paper on Key Information Documents (KIDs) (JC/DP/2014/02)² and the ESAs Technical Discussion Paper on PRIIPs³.

Concerning the Consultation Paper, we would like to raise some points that are not addressed in the context of the specific consultation questions as follows:

1. Obligation to draw up the key information document – already existing products

During the hearing on 9 December 2015 it became clear that the Joint Committee assumes that for products which were launched before the entry into force of PRIIPs Regulation and the sale of which to private customers could not be excluded a KID should be produced from the date of effect of PRIIPs-Regulation.

The strict application of the PRIIPs Regulation to already existing products would be highly problematic for issuers. Given that the design of the Level II requirements will be completed at the earliest during the first half of 2016, PRIIPs producers are already facing significant problems to create the KIDs for the newly issued products on time. The implementation would be almost impossible if manufacturers of existing products that are traded on secondary markets would need to create key information documents too. To illustrate the challenge, it should be noted that on German stock exchanges alone there are more than a million products listed. Already this number shows that it would be impossible for the creators PRIIPs to prepare KIDs for the volume of existing products in less than a year.

Due to the huge practical problems the above approach regarding the applicability of PRIIPs on existing products should be reviewed immediately. If nevertheless this is not done in the worse case scenario other practical solutions should be explored, such as limiting the applicability of PRIIPs to actively offered products.

¹ For further details, please visit www.eacb.coop

² http://www.globalcube.net/clients/eacb/content/medias/publications/position_papers/financial_markets/PRIIPS/EACB_position_paper_PRIIPs_17.02.2015.pdf

³ http://www.globalcube.net/clients/eacb/content/medias/publications/position_papers/financial_markets/PRIIPS/EACB_position_paper_PRIIPs_17.02.2015.pdf

2. Issue of applicability of the Regulation on (OTC) derivatives to hedge

As has been said before (see also our response to the previous discussion papers) in many cases the suggested approaches are not suitable for OTC derivatives contracts. It seems that the ESAs have not yet taken into account the specificities of OTC. For this reason we -once more- have to argue strongly against the inclusion of OTC derivatives in the scope of application, in particular when they are sold for hedging purposes.

According to Annex II, paragraph 9 certain rules for determining risk are applicable to derivatives "that qualify as PRIIPS". We understand this statement so that not all derivatives which fall within Nr. 4 - 10 of Part C of Annex 1 to Directive 2014/65/EU are to be classified as PRIIPS, but only those that meet the conditions of Art. 4 paragraph 1 of the Regulation 1286/2014/EU.

Financial Instruments can only be qualified as "packaged retail investment product" ("PRIIPs"), if at least the following requirements are met:

- It is an "investment". This requires that the investor makes an amount available and a repayment is expected ("amount repayable") (see. Art. 4 paragraph 1 Regulation 1286/2014 / EU).
- The amount to be repaid must depend on the development of an underlying asset.
- In order for the PRIIPs rules for drawing up the KID to apply there must be a "manufacturer" who created a "product" that "is sold" from him or a sales person (see. Art. 4 paragraph 4, Art. 5 paragraph 1, Art. 13 paragraph 1 Regulation 1286/2014 / EU).

It is evident by numerous provisions that the PRIIPs regulation by no means matches the specifics of OTC transactions:

In our view, the creation of basic information sheets on the basis of individual contracts would be highly disproportionate because:

- 1) There is no initial investment. With this in mind we consider that, for example, the specification of annex IV, para. 19 should be deleted.
- 2) It could lead to potentially sensitive data on specific contractual arrangements between two parties being public. This would also be difficult to explain to the client, since part of the content would divulge trade secrets.
- 3) A meaningful generic description on the basis of the specified contents and the specified page limit is not possible.

Therefore, we once more invite the ESAs to take into account our concerns and to make appropriate proposals for OTC derivatives where necessary.

At least, the following areas require further clarification by the ESAs:

- An indication of exemplary investment volumes and repayment scenarios for OTC derivatives will not be correct but even misleading in most cases. A standardization of individual contracts with very individual hedge periods and lump sums in a way that makes sense is not possible. Such information would lead to significant, disproportionate liability risks for the creators with the risk of distributor going out of business.
- The timely provision of the KID basically does not correspond to market practice and requirements for business customer regarding "currency trading", since a business customer (as a retail client classified under MiFID), usually without notice, requests the conclusion his foreign exchange transaction by phone immediately to avoid any currency rate disadvantage. In addition, more and more customers transact and conclude their foreign exchange business via trading platforms, where the bank only sees that the cus-

customer is trading at the moment of the transaction. Here exists the fundamental problem is how to deal with time-critical OTC transactions.

- A significant problem with KIDs for OTC derivative transactions on the individual contract level, is also the requirement that a new KID will need to be provided to the customer in case of significant changes. The risk assessment of OTC transactions basically depends on the current market movements, so that the majority of market movements can also affect KID details immediately. In such cases, the exception "KID-revision only when significant changes" will quickly become the rule and overflow the customer with unmanageable information.
- The obligation to publish the KID on the issuer's website leads to a disproportionate individual OTC documentation requirement, which threatens to create additional delay the completion of a transaction.
- Also, the risk indicator can not take into account the purpose of the OTC derivative. OTC derivatives that are linked to an underlying transaction and serve hedging purposes, can by no means not be equated to OTC derivatives for speculative purposes with a view to risk assessment.

In general, we would like to once more stress that the extension of the scope of OTC derivatives for hedging purposes would be very disproportionate. For good reason, the European Market Infrastructure Regulation (EMIR) differentiated between OTC derivatives entered into for hedging and those for speculative purposes, whereas both offering banking and the corporate customer must report the nature of the business (see Regulation 148/2013, Appendix, Table 1, box 15). A specific delimitation of these individual agreements is thus ensured. The peculiarity of OTC derivatives for hedging purposes is also made clear in Article 10, paragraph 3 EMIR where OTC transactions entered into for hedging purposes are not included in the calculation of the positions of OTC derivative contracts held against the thresholds below which non-financial counterparties are excluded from the clearing obligation (clearing threshold). Recital 31 further states: "[...] When the clearing threshold is set, the systemic relevance of the sum of net positions and exposures per counterparty and per class of OTC derivative contract should be taken into account. In that connection, appropriate efforts should be made to recognise the methods of risk mitigation used by non-financial counterparties in the context of their normal business activity.

The genesis of EMIR and in particular the declared and not yet reached target of the G20 to bring more OTC derivatives to clearing (EMIR) and to the regulated market (MiFIR) has shown that a wide-ranging standardization of these agreements is very difficult.

We once more ask the ESAS to expressly disclose their position regarding the scope of application and explain why OTC derivatives are considered to fall into the scope of PRIIPs.

3. Interconnections with MiFID II

Indeed there are strong thematic interconnections between some of the new investors rules in MiFID 2 and PRIIPs. We would therefore like to draw urgent attention to the fact that a decision to delay implementation of the MiFID II investor protection rules would have implications for PRIIPs as well, and would in all likelihood result in manufacturers not having sufficient clarity on all content details for providing all required KIDs until the end of next year. Moreover, it is a question if the investment firms should be exempted from providing the KID when they offer the service of individual portfolio management, considering in that case, in fact, the investment decision is entirely taken by the investment firm.

4. Treatment of UCITS in the context of multi-option products (MOP)

The PRIIPs Regulation provides for an exemption from the obligation to provide a KID for UCITS as they are subject to the provision of a KIID under UCITS. However, it was stated during the public hearing in Frankfurt that when UCITS are investment options of a multi-option product, i.e. of unit-linked insurance products, they would be subject to the provision of a KID. There are theoretically hundreds of UCITS that could be investment options of

insurance products but very few of them will actually be in practice. However, all of them would be subject to the provision of a KID in addition to the provision of the UCITS KIID, just in case they would be used as an investment option. As a result, the exemption granted at Level 1 for UCITS would be overturned by Level 2 measures.

For these reasons, we propose that, in the case of UCITS used as investment options for MOPs, there be a KID at the level of the insurance contract and a reference made to the UCITS KIID with regards to the investment options. If and where information would be lacking as the fields are different in UCITS KIID and PRIIPs KID, we suggest that the asset manager transmits the lacking information to the insurer that will be able to complement the KID accordingly.

5. Specific comments on the draft delegated Regulation

a. Identity section, Art. 3

Art. 3(f) provides that the key information document shall contain the date of production and of any subsequent revision of the key information document. This goes beyond the requirements of Level I text Regulation which provides in Article 8 (3)(a) that the key information document must contain only the date of its creation, meaning that in case of a revised KID the date of the revised and therefore the newly created KID is sufficient. Neither Article 10 PRIIPs does not require this. Previous documents are not relevant to the investment decision of the investor. Therefore Art. 3 f) of the draft RTS should be amended requiring only "the date of the latest revision of the key information document. Any other approach requiring more information would go counter the idea of a 3 page document containing the most relevant information for the investor, as after a few years tens of dates would potentially need to be included .

b. What is this product? section, Art. 4

Art. 4 (4) provides that the KID should contain information on the target market according to MiFID II. The EACB members really support this approach since synchronisation with the MiFID II with regards to the scope of application must be sought. However, the specifications do not expressly refer to the relevant provisions of MiFID II, but rather provide individual criteria for the target market determination. Certain criteria (e.g. 'knowledge') seem to be totally irrelevant to the target market determination in the context of MiFID II. We consider that in order to avoid any conflicting interpretations of the requirements under MiFID II Art. 4 (4) should only contain a reference to the Art. 16 para. 3 MiFID II concerning the specification target market. The detailed specification of the target market requirements should be done exclusively in the context of the MiFID II, because the requirements of MiFID II go beyond mere disclosure of a target market and have an enormous practical relevance. In addition, market participants are already working intensively on implementation of MiFID II. There is a great risk of compromising this work with new and divergent requirements in this context. ESMA should have addressed the issue reportedly already under potential Level III measures.

c. Other relevant information 'section, Art. 11

According to Art. 11 (3) of the ESMA proposal for a draft implementing Regulation PRIIPs that are available to retail investors shall include the statement that the KID is updated at least every 12 months. We assume that for most KIDS no update is required. In such cases the statement that the KID is updated at least every 12 months would be misleading. We suggest a deletion of that requirement.

d. Review, revision and republication of the Key Investor Document, Chapter IV

Art. 18 does not contain any specification on how to deal with a key information document which needs to be revised. For reasons of legal certainty a provision should be added clarifying whether the existing KID could be used until the publication of an updated version (provided that the other conditions are fulfilled i.e. review and publication be made immediately).

Recital 19 provides the possibility that tools, such as mailing lists or email alerts, might be implemented to inform existing retail investors when key investor documents are revised. We would consider that this possibility is not compatible with the essence of the KID being pre-contractual information document as it will no longer fulfil its purpose a posteriori. Implementation would also be associated with a disproportionate increase of costs. Against this background this phrase should be deleted.

e. Template of the Key Information Document (KID), Annex I

Before finalising the RTS it should be ensured that all the required information could actually fit in a 3 page document as provided in Art. 6 (1)(4) of PRIIPs Regulation. There are reasonable doubt of whether this would be possible considering that only for the cost presentation there are 2 overviews to be presented and the overviews regarding risks and performance should be supplemented with additional explanations. Practical test should be performed in that regard and test which information could be omitted.

f. 'What are the Risks and what could I get in return?' Section, Art. 5, Annex II & III

The EACB fully supports the overall objective of the Regulation to achieve comparability between all PRIIPs. In this context the presentation of market risk is crucial. We consider that the ESMA current proposal cannot guarantee the desired comparability of product risks can thus not be guaranteed.

All packaged products should be measured with the same quantitative risk assessment method in sense of a flexible risk classification system. Only in this way distortion of competition between product categories is avoided and retail investors are informed in an appropriate manner prior to their investment decision.

The summary risk indicator in Article 8 para.3 (d) of PRIIPs Regulation is intended to enable the retail investor to make an informed assessment of the risks associated with the product and to compare different packaged products.

In this context the market and credit risk is aggregated in an index. The assignment of this value in the different KID suggests to the consumer that a carefully evaluated risk assessment method is used as a basis and which applies equally to all packed products.

However, the initial calculations show that a variety of packaged products is classified within the highest risk classes. This means that certain equity funds which are classified in Class 7 will be seen as risky as for example a leveraged knock-out certificate. As a result, a retail investor with low affinity to risk, will be prevented by an investment in an equity fund although its actual risk might even meet its investment profile.

This lack of differentiation of risks profiles between financial instruments with comparatively lower and higher risks tend to be a bigger problem for risk-averse, conservative investors - the Final Report "Consumer testing study of the possible new format and content for retail disclosures of packaged retail and insurance-based investment products" amongst others suggests that in general people's attitude is rather risk averse (page 61). In particular, in a low interest rate environment the experience of our banks investment advice shows that investors seek higher-

yielding investments at acceptable risk for them. In this context a stock fund with appropriately long investment horizon is a suitable -if not indispensable- investment product for a conservative investor. Since the current proposal does not allow an adequate differentiation of products with comparatively higher risks a risk averse retail investor will be discouraged from investing in an equity fund. This runs counter not only to the political aim of protecting investors, but also to the idea of a Capital Markets Union (CMU).

Moreover, the lack of differentiation has several other interrelated causes. It is striking that the proposal for the scaling of volatility for assignment to the MRM classes 1 to 7 in the low risk classes is finely divided while in the higher risk classes the intervals are relatively higher. This, -in our view incorrect interpretation of risks- has not been consulted in the discussion paper of 17 November 2014

For the reasons set above we would strongly encourage ESMA to review the current proposal.

In particular, the EACB members consider that the following scale adjustment would achieve a more appropriate risk classification:

MRM Class	Proposed thresholds*	JC thresholds*
1	< 2,5 %	< 0,5 %
2	2,5 % - 5 %	0,5 % - 2 %
3	5 % - 15 %	2 % - 5 %
4	15 % - 25 %	5 % - 10 %
5	25 % - 35 %	10 % - 15 %
6	35 % - 45 %	15 % - 25 %
7	> 45 %	> 25 %

*thresholds for annualised volatility

With regards to special features of the risk assessment of OTC derivatives for hedging purposes we refer to our comments under point 2 above.

g. Performance Scenarios, Annex IV and Annex V

The in the Consultation Paper proposed approach requires the scenarios to be primarily based on the "Recommended holding period" (which could be something like "five years"). We believe that this approach is wrong because scenarios for shorter periods than the recommended holding period / final maturity of the product are not suitable as a comprehensive information for the investor as they are based on numerous assumptions. Therefore, the probability of each scenario is rather a negligible probability. Also the structure / features of packaged investment products will not be taken into account. Moreover, for products with a fixed maturity date, the recommended holding period would often not correspond to the maturity date. This would mean that the scenarios would, in the absence of payouts under the products before their maturity dates, have to be calculated based on exchange (or OTC) prices. In addition, two other scenarios would have to be displayed for shorter holding periods. At least for structured securities, scenarios on this basis would be highly problematic from a methodological perspective. Instead, for products with fixed maturity dates, only one performance scenario should be required for that date. Generally three scenarios would be required. However, different to the practice for certain national law product information documents the middle scenario would be called "moderate" and would have to be calculated based on the expected return. This kind of approach appears doubtful from a methodological perspective, as it could mislead investors to expect the realisation of that scenario with a high degree of certainty. In addition, it could let certain product structures appear generally unappealing; depending on prevailing market conditions, it could seem that only "long" or "short" products would make sense to invest in at certain points in time. This would make a comprehensive product line for all kinds of investors' market expectations difficult to defend.

A better way would be to allow that the "moderate" scenario can be set freely according to reasonable discretion of the issuer, or to turn this into a "neutral" scenario where investors neither make a win nor loss. In addition, it should be possible to include more scenarios, if the structure and functioning of the product cannot be fully captured by three scenarios.

The EACB would be against Art. 6 (7) of the draft RTS which provides that further specifications on Level III should be made with regards to the definition of scenarios, as this will complicate the already very time-sensitive implementation. We believe that the concretisations should take place directly on Level II and not shift to Level III.

Another problem is in our view the fact that according to Art. 6 para. 4 another scenario for the realization of the insured risk is to be included. This approach is contrary to the provisions about the presentation of cost that at least for biometric risk premiums the total cost of hedging the risk will not be included. In order here to avoid distortions of competition either both of the total costs and the added value will be disclosed in the KID or neither of them.

In addition, the fact that according to Annex IV, Section 18 there are different default amounts for different groups of products i.e. for insurance investment products and PRIIPs could lead to distortions of competition to the detriment of PRIIPs. Since the scenarios should be calculated after deducting the costs, it may be that the minimum costs of PRIIPs, which are calculated based on an default investment amount of € 1,000, have a stronger impact than in the case of insurance products in which base of the calculation is a default amount of € 15,000 (or on annual payments of € 1,000). In addition, in the case of lower investment amounts also the return in absolute terms is lower. To avoid these distortions and to allow the desired product comparisons, a uniform amount of 10,000 € should be applied for all PRIIPs. This amount would be closer to the actual order sizes and thereby a more realistic picture of the expected returns presented provide investors.

Finally, the requirement to explain separately the presentation of scenarios (cf. p. 56, last point) significantly raises the costs of the issuer. This specification should be deleted entirely or at least be configured optionally.

It also remains open how to deal with products with short residual maturities. Here it should be clarified that the information about the intermediate periods may be omitted. This would allow to present performance scenarios only at maturity to avoid creating false expectations for the investor (avoiding the presentation of scenarios at the intermediate stage).

h. Methodology for the calculation of costs, Annex VI and Annex VII

We fear that the Consultation Paper is not fully consistent on this topic. For example, there are differences with regard to the treatment of hedging costs (general definition of "fair value" on the one hand, explicit requirement for this to be counted as cost on the other). Also, the Consultation Paper implies that the fair value should correspond, for each product, to the value reported in the balance sheet of the issuer. However, the issuer's balance sheet does not show the value of all individual products issued. The proposed treatment of spreads probably needs to be readjusted at least partly (depending on the outcome of the detailed assessment of cost disclosure jointly under PRIIPs and MiFID II - discussions ongoing).

Moreover, the holding period assumed for the presentation of costs would need to be aligned with the holding period used for performance scenarios (in case of its amendment as suggested above, using the fixed maturity date).

Considering that the responsibility for the KIDs lies with the manufacturer, it is imperative that all the listed cost items concern the costs of manufacturer so they are known to him.



In addition, it is essential to ensure constant alignment between the specifications in PRIIPs and the transparency requirements to the product-related costs by MiFID II.

Again, we consider problematic the requirement that the costs of PRIIPs are calculated on the basis of an initial investment of € 1,000 and for insurance based on an initial investment of € 15,000 (or partly based on annual payments of € 1,000). This could lead to competitive disadvantages for PRIIPs. To enable the desired product comparisons, a single investment amount of € 10,000 for all products should be used. This amount would be closer to the actual order sizes and thereby a more realistic picture of the expected returns presented provide investors.
<ESMA_COMMENT_PRIIPS_1>

Question 1

Would you see merit in the ESAs clarifying further the criteria set out in Recital 18 mentioned above by way of guidelines?

<ESMA_QUESTION_PRIIPS_1>

No, at the moment we have enough regulation to PRIIPs products. Moreover, the remaining time for the implementation of the requirements of PRIIPs Regulation is too tight to allow for the timely implementation of further clarification in the form of guidelines. Any additional requirement could compromise timely implementation. If necessary further criteria could be considered in the review due by 31.12.2018..<ESMA_QUESTION_PRIIPS_1>

Question 2

- (i) Would you agree with the assumptions used for the proposed default amounts? Are you of the opinion that these prescribed amounts should be amended? If yes, how and why?*
- (ii) Would you favour an approach in which the prescribed standardised amount is the default option, unless the PRIIP has a known required investment amount and price which can be used instead?*

<ESMA_QUESTION_PRIIPS_2>

(i) No. We consider that the proposed default amounts should be the same for all products. Having different assumptions for certain product groups is contrary to the objective of the European legislator to provide for the investment products concerned uniform basic information sheets that enable product comparisons on the different product groups. This goal can only be achieved if the contents of the key information documents are based on uniform assumptions underlying.

Moreover, we see the risk that different assumptions could be detrimental for certain products e.g. PRIIPs: A higher investment amount provided for insurance investment products would regularly lead to a higher rate of return in absolute terms. In order to avoid this situation, uniform assumptions should necessarily be taken as a basis.

Also the amounts should be sized so that a realistic picture of the "typical" investors will be given, therefore be based on the actual order sizes. Most of the EACB members would suggest an amount of 10.000€ as it represents a more realistic investment sum for the typical retail client.

(ii) For PRIIPs which have a fixed investment amount, an exception should be possible, so as to allow the producers to use the amount in question. But as the individual design causes a high effort, this approach should only be provided as an option. <ESMA_QUESTION_PRIIPS_2>

Question 3

For PRIIPs that fall into category II and for which the Cornish Fisher expansion is used as a methodology to compute the VaR equivalent Volatility do you think a bootstrapping approach should be used instead? Please explain the reasons for your opinion?

<ESMA_QUESTION_PRIIPS_3>

Tests were showing that both methods are leading to similar results. Due to the fact, that the bootstrapping approach is far more complex, we are supporting the Cornish Fisher expansion.

Having said that some of our members consider that VaR should not be indicated as the most appropriate method of measuring market risk. It would also be appropriate to refer to the volatility, in order to take into account the needs of all banks. Therefore historical (ex post) volatility could be indicated as an alternative methodology. This method would allow comparison of multiple products and could be easily calculated also from smaller banks who



use third parties for pricing and risk assessment. Moreover, this figure could be easily explained and understood by the customer. Inability to dispose of historical data on new issues can be overcome through the use of proxies..<ESMA_QUESTION_PRIIPS_3>

Question 4

Would you favour a different confidence interval to compute the VaR? If so, please explain which confidence interval you would use and state your reasons why.

<ESMA_QUESTION_PRIIPS_4>

The confidence interval is part of the VaR formula and thus also part of the calculating method of the VEV. Nevertheless, its point estimate is in reality not the most important. In our view it is much more crucial that the current product risk is not considered in the calculation formula, but the risk at maturity is. For products with varying maturities, this leads to non-comparable results..<ESMA_QUESTION_PRIIPS_4>

Question 5

Are you of the view that the existence of a compensation or guarantee scheme should be taken into account in the credit risk assessment of a PRIIP? And if you agree, how would you propose to do so?

<ESMA_QUESTION_PRIIPS_5>

Our members are in favour of the adoption of a qualitative measure for credit risk and, notably, for credit rating. We agree with the proposed methodology contained in paragraphs 55 to 58 of the document. However, where the credit rating is not available it does not mean that the credit risk is higher than in the case of a rated issuer.

We believe, anyhow, that it is appropriate to take into account in the credit risk assessment the existence of a compensation or guarantee scheme.

Generally, co-operative banks are small and not listed on the Capital Markets. Due to the excessive costs, it is not possible for them to be rated by a Credit Rating Agency. However, some co-operative networks have developed Guarantee schemes (Bondholders Protection Scheme) which are expressly intended to protect investors from a default of the issuer. Bearing this in mind, we do not think it is correct to attribute Category V to this kind of PRIIPs. The presence of this guarantee should be regarded as a risk decreasing factor. For example, paragraph 66 should provide that in case of guarantee scheme the credit risk should be decreased by 2 notches<ESMA_QUESTION_PRIIPS_5>

Question 6

Would you favour PRIIP manufacturers having the option to voluntarily increase the disclosed SRI? In which circumstances? Would such an approach entail unintended consequences?

<ESMA_QUESTION_PRIIPS_6>

No, we think that it is better to have this SRI as simple as possible..<ESMA_QUESTION_PRIIPS_6>

Question 7

Do you agree with an adjustment of the credit risk for the tenor, and how would you propose to make such an adjustment?

<ESMA_QUESTION_PRIIPS_7>

Referring to the credit risk assessment proposed in the CP a further adjustment for tenors seems not to be a sound approach. Of course, credit risk in general increases with increasing tenors, but there is no linear relation with credit risk, so such an adjustment could produce misleading results..<ESMA_QUESTION_PRIIPS_7>

Question 8

Do you agree with the scales of the classes MRM, CRM and SRI? If not, please specify your alternative proposal and include your reasoning.

<ESMA_QUESTION_PRIIPS_8>

No, we do not agree.

Referring to the MRM we believe that the scale is way too conservative and does not reflect the investment reality.

According to the proposed methodology for the SRI, popular standard investments fall into the highest risk categories. From our point of view, a well diversified equity investment (e.g. EURO STOXX 50 index) should be allocated somewhere in the middle of the classification scheme in order to allow a differentiation among different PRIIPs. With the proposed scheme these investments are allocated in the highest risk classes. Referring to the table in Part 3 (paragraph 69) we consider that the higher SRI classes 5, 6 and 7 are overrepresented in the table.

Referring to the CRM we are of the opinion that the gap of 2 SRI classes resulting from a one notch rating difference is not meaningful. In practice a capital guaranteed structure from an A issuer (S & P scale) would have an SRI of 1 (MRM 1, CRM 2) while the same product from a BBB rated issuer would be allocated in SRI class 3 (MRM 1, CRM 3). The gap of 2 classes is not comprehensible at all..<ESMA_QUESTION_PRIIPS_8>

Question 9

Are you of the opinion that for PRIIPs that offer a capital protection during their whole lifespan and can be redeemed against their initial investment at any time over the life of the PRIIP a qualitatively assessment and automatic allocation to MRM class 1 should be permitted?

Are you of the opinion that the criteria of the 5 year tenor is relevant, irrespective of the redemption characteristics?

<ESMA_QUESTION_PRIIPS_9>

This approach seems to be reasonable for investors which buy a product at 100% of the nominal (e.g. primary market). In case the investor purchases a product later through the secondary market he may pay e.g. 120% of the nominal since market performance may increase the value of the product. This investor does not get 100% capital protection but only a partial protection. Therefore, there should be a difference between primary and secondary market for the MRM. Having said, it is not possible to have two different KID for the same product and the approach should be as simple as possible.

The tenor would be relevant to the extent that there is an impact of the duration on the price. However, if there is a secondary market the tenor is irrelevant because the market risk has to be taken into account anyways. And if there is no secondary market the tenor may not generate a price impact. At the end the tenor is irrelevant in both cases..<ESMA_QUESTION_PRIIPS_9>

Question 10

Are you aware of other circumstances in which the credit risk assessment should be assumed to be mitigated? If so, please explain why and to what degree it should be assumed to be mitigated?

<ESMA_QUESTION_PRIIPS_10>

No, we think that it is better to have this credit risk assessment as simple as possible..<ESMA_QUESTION_PRIIPS_10>

Question 11

Do you think that the look through approach to the assessment of credit risk for a PRIIP packaged into another PRIIP is appropriate?

<ESMA_QUESTION_PRIIPS_11>

In general most of our members consider that the look through approach to the credit risk assessment for a PRIIP packaged into another PRIIP is appropriate and reasonable.

However, one of our members stressed that the methodology as set out in Annex II, paragraph 55 c) would mean that in case of a certificate on the DAX the credit assessment should include all companies being covered by the DAX. Since credit risk of those companies is not relevant (barely measurable) the logic should be that as long as the payout is linked to performance credit risk of the underlying should not have any impact. Therefore, this article should be deleted..<ESMA_QUESTION_PRIIPS_11>

Question 12

Do you think the risk indicator should take into account currency risk when there is a difference between the currency of the PRIIP and the national currency of the investor targeted by the PRIIP manufacturer, even though this risk is not intrinsic to the PRIIP itself, but relates to the typical situation of the targeted investor?

<ESMA_QUESTION_PRIIPS_12>

No, the currency risk should not be taken into account: The currency risk depends on the home currency of the investor. Since the PRIIP-KID should be the same in all countries it is not possible to have a general integration of the currency risk into the SRI calculation.

However, a general disclaimer could be added giving investors an indication that he should be clear about the currency of his investment and that he should be aware that there could be a currency risk in case the currency of the products would not be his home currency.<ESMA_QUESTION_PRIIPS_12>

Question 13

Are you of the opinion that the current Consultation Paper sufficiently addresses this issue? Do you it is made sufficiently clear that the value of a PRIIP could be significantly less compared to the guaranteed value during the life of the PRIIP? Several alternatives are analysed in the Impact Assessment under policy option 5: do you see any additional analysis for these assessment?

<ESMA_QUESTION_PRIIPS_13>

No, products with higher risk during the life of the product than at maturity could be treated the same way as Category III products.

It is true that some products have a significant higher risk before the end of maturity. Risk classes for different holding periods could illustrate the risks for different holding periods. As these calculations are also and already requested for scenario analysis, no additional effort is necessary. Given that retail clients typically do not perceive narratives as relevant as graphical illustrations, we recommend to use an additional figure. Compared to the well-designed presentation of the cost indicator, the presentation of the SRI is still simple and allows the disclosure of additional graphical information.

As pointed out in our previous answers (in particular in response to question 9), the problem of lower risk at the end of maturity (compared to shorter horizons) only arises because of the end of maturity perspective.

A different approach would not allow a comparison between different PRIIPs, which counters a central aim of the regulation. This could be adjusted by changing the end of maturity perspective into a prescribed holding period approach for calculating the SRI. An appropriate, consistent holding period for instance could be one year, which is also used in other regulatory frameworks (e.g. Basel III). It is obvious that such a consistent holding period is not appropriate for each and every retail investor / PRIIP, but this can be neglected due to the fact that the calculated risk figure / the VEV only serves as a technical basis for deriving the overall SRI. The same applies with the current methodology because of the transformation of the end of maturity Value at Risk into an annualised volatility equivalent. In conclusion, the risk figure / VEV itself cannot be taken as a realistic value for the product risk.

Therefore we strongly recommend using one approach and one holding period in order to ensure comparability and potential risk changes during a holding period. Such a methodology also takes into account the maturity of the product by reflecting all relevant risk factors (besides price risks also interest rate risk, volatility risk etc.) in the calculation of the SRI. Such an approach was outlined in option 3 in the technical discussion paper and is well-established for many PRIIPs across Europe..<ESMA_QUESTION_PRIIPS_13>

Question 14

Do you agree to use the performance fee, as prescribed in the cost section, as a basis for the calculations in the performance section (i.e. calculate the return of the benchmark for the moderate scenario in such a way that the return generates the performance fee as prescribed in the cost section)? Do you agree the same benchmark return should be used for calculating performance fees for the unfavourable and favourable scenarios, or would you propose another approach, for instance automatically setting the performance fees to zero for the unfavourable scenario? Please justify your proposal.

<ESMA_QUESTION_PRIIPS_14>

No response for the moment.

<ESMA_QUESTION_PRIIPS_14>

Question 15

Given the number of tables displayed in the KID and the to a degree mixed consumer testing results on whether presentation of performance scenarios as a table or a graph would be most effective, do you think a presentation of the performance scenarios in the form of a graph should be preferred, or both a table and a graph?

<ESMA_QUESTION_PRIIPS_15>

The EACB is in favour of the tabular form. It is much clearer than the graphical representation and it seems to be the most understandable for investors. In addition, it seems to be more suitable for the exposure of the scenario in which we should give evidence of the performance of the product as a result of operations of insurance guarantees (e.g. death) . Moreover, the EACB is very much against the a presentation of both a table and a graph as this could confuse the retail client while not having any added value as the table and the graph would comprise the same information. Also the very length of the document (3 pages- Art. Art. 6 para. 4 sentence 1 of PRIIPs regulation) advocates against the same information being listed twice. .<ESMA_QUESTION_PRIIPS_15>

Question 16

Do you agree with the scope of the assets mentioned in paragraph 25 of Annex VI on transaction costs for which this methodology is prescribed? If not, what alternative scope would you recommend?

<ESMA_QUESTION_PRIIPS_16>

The EACB supports the recommendation transaction costs to determined the transaction costs should be defined based on an estimated value. It is important, however, that these estimated values are regularly reviewed and adjusted if necessary.

Moreover, the EACB consider that this methodology should not only apply to newly established funds, but also to existing ones. For fund companies it will hardly be possible to calculate the transaction costs consistently in practice . For this reason the calculation of the transaction costs should also be carried out with existing funds on the basis of estimates. .<ESMA_QUESTION_PRIIPS_16>

Question 17

Do you agree with the values of the figures included in this table? If not, which values would you suggest? (please note that this table could as well be included in guidelines, to allow for more flexibility in the revision of the figures)

<ESMA_QUESTION_PRIIPS_17>

As we stressed in our response to Q16 the EACB considers that it is really important, that the estimated values are regularly reviewed and adjusted when necessary. For example in high yield bonds these values may fluctuate in volatile markets. If these figures form part of a regulation it will be very difficult to change. Including this table in guidelines would allow more flexibility in changing these values on a regular basis. Having said that, in an already very tight implementation timeframe, a determination of the estimates in the form of guidelines would dramatically shorten the time for the implementation of the relevant provisions, as level III work will only be performed when all the Level II requirements are finalised ,while these figures would need to already be fixed at the time Level II is published. .<ESMA_QUESTION_PRIIPS_17>

Question 18

Do you agree that the monetary values indicated in the first table are a sum of costs over the respective holding periods? Or should the values reflect annualized amounts? If you prefer annualized amounts, which method for annualisation should be used (e.g. arithmetic average or methods that consider discounting effects)?

<ESMA_QUESTION_PRIIPS_18>

The values should reflect annualised amounts and the method for annualisation should be the arithmetic average. This increases the comparability of investment products for the client and because the relative decrease in non-recurring costs is shown. In addition, the monetary values would also match with the percentage indication of RIY, which also decreases over time. In the "summing up" method, it would be difficult for the investor to understand when the total costs are steadily increasing in absolute terms due to the adding up, while the percentage of RIY decreases.

If the representation is made on annualised values it must be ensured that this is sufficiently clarified.
<ESMA_QUESTION_PRIIPS_18>

Question 19

Do you think that estimating the fair value of biometric risk premiums as stated in paragraph 55(b) of Annex VI would raise any technical or practical difficulties?

<ESMA_QUESTION_PRIIPS_19>

In our view, must be ensured that in the calculation of the fair value of the biometric risk premiums the requirements are specific enough and leave no leeway for the fair value to be set higher than it actually is. Since the costs that fall within the fair value cost are not included in the total cost, the incentive may be to set these costs as high as possible and the reportable costs correspondingly low. This would lead to distorted representations as the cost will be shown lower than its actually is.

This also raises the question of whether it is really necessary to exclude the fair value of the biometric risk premiums from the total cost. The relevant value could be represented in other parts of the KID e.g. under product description. If this possibility exists, we see no reason to exclude a portion of the costs. The consistent approach would be to either display both full costs and the value or neither of them

Finally, we would like to noted that there are cases foe example certain investment type life insurance products whose characteristic do not entail any such biometric risk premiums that should be shown to the investor as expenses. <ESMA_QUESTION_PRIIPS_19>

Question 20

Knowing that the cost element of the biometric risk premium is included in the total costs calculation, how do you think the investor might be most efficiently informed about the other part of the biometric risk premium (i.e. the fair value), and/or the size of biometric risk premium overall? Do you consider it useful to include the fair value in a separate line in the first table, potentially below the RIY? Or should information on the fair value be disclosed in another part of the KID (for instance, the "What is this product?" section, where the draft RTS currently disclose biometric risk premiums in total, and/or in the performance section)? What accompanying narrative text do you think is needed, and where should this be placed, including specifically narrative text in the cost section?

<ESMA_QUESTION_PRIIPS_20>

We understand that the specifications in Annex VI paragraph 55 in the sense that with regards to the biometric risk premiums only the difference between the premiums paid and the fair value is included into the total cost. If however the fair value is sidelined in the cost representation, it should not be emphasised in another context. A different approach would mean that the merit of the fair value is presented in the KID but not included in the associated costs.

With this in mind, we consider that a representation of the fair value should exist to the extent that all the relevant costs are fully included in the total cost.

<ESMA_QUESTION_PRIIPS_20>

Question 21

Given evidence as to the difficulties consumers may have using percentage figures, would you prefer an alternative presentation of the second table, solely using monetary values instead? As with the first table, please also explain what difficulties you think might arise from calculating monetary values, and whether this should be on an annualized basis, and if so, how?

<ESMA_QUESTION_PRIIPS_21>

As we stated above, we find considerably challenging including two tables which contain the same information while ensuring a 3 pages document. Moreover, in this particular case it should also be considered that the further breakdown of costs as per the second table is not required by Level I while the added value of representation is likely to be very low. Therefore, the second table should be omitted entirely. In any case, the approach chosen should be aligned and as close as possible to the relevant implementation provisions of MiFID II.

<ESMA_QUESTION_PRIIPS_21>

Question 22

Given the number of tables shown in the KID, do you think a more graphic presentation of the breakout table should be preferred?

<ESMA_QUESTION_PRIIPS_22>

No, no additional graphic or replacement of tables by graphics is necessary as the tables are comprehensible enough. Moreover, considering that the presentation of performance scenarios and of the costs follows the same logic, it makes sense that the preparation is always carried out in the form of tables.

<ESMA_QUESTION_PRIIPS_22>

Question 23

The example presented above includes a possible way of showing the variability of performance fees, by showing the level for all three performance scenarios in the KID, highlighting the 'moderate' scenario, which would be used for the calculation of the total costs. Do you believe that this additional information should be included in the KID?

<ESMA_QUESTION_PRIIPS_23>

No, the KID should be as simple as possible. No additional information is required in order to understand the scenarios. Last but not least, it should not be forgotten that the KID is a 3page document

<ESMA_QUESTION_PRIIPS_23>

Question 24

To reduce the volume of information, should the first and the second table of Annex VII be combined in one table? Should this be supplemented with a breakdown of costs as suggested in the graphic above?

<ESMA_QUESTION_PRIIPS_24>

It would be better if both tables would be combined and would occupy accordingly less space. However, in case of merging the presentation would become very complex and hardly possible for retail investors to understand. For this reason we consider that the deletion of the second table is the most appropriate solution. A breakdown of costs is not necessary.

<ESMA_QUESTION_PRIIPS_24>

Question 25

In relation to paragraph 68 a) of Annex VI: Shall the RTS specify that for structured products calculations for the cost free scenario have always to be based on an adjustment of the payments by the investor?

<ESMA_QUESTION_PRIIPS_25>

Yes, this system makes different products more comparable.

<ESMA_QUESTION_PRIIPS_25>

Question 26

Regarding the first table of the cost section presented in Annex VII, would you favour a detailed presentation of the different types of costs, as suggested in the Annex, including a split between one-off, recurring and incidental costs? Alternatively, would you favour a shorter presentation of costs showing only the total costs and the RIY?

<ESMA_QUESTION_PRIIPS_26>

We prefer a shorter presentation of costs showing only total costs and the RIY

If it should remain our vote against this is that the cost of representation shall be made in two tables, we would appreciate it, in fact, when the breakdown in the table "Costs overtime" would remove. This is on the one hand to a certain extent redundant to further breakdown in the presentation "Composition of Costs". In addition, the reduced representation would be considerably less space, which would be welcome in particular as regards the limited scope of the kids

<ESMA_QUESTION_PRIIPS_26>

Question 27

Regarding the second table of the cost section presented in Annex VII, would you favour a presentation of the different types of costs showing RIY figures, as suggested in the Annex, or would you favour a presentation of costs under which each type of costs line would be expressed differently, and not as a RIY figure -expressed as a percentage of the initial invested amount, NAV, etc.?

<ESMA_QUESTION_PRIIPS_27>

Most of our members prefer the version suggested in the Annex.

In any case, in view of aligning PRIIPs and MiFIDII, we consider that the breakdown should include all cost information on the financial instrument which may be relevant to comply with MiFID II.

<ESMA_QUESTION_PRIIPS_27>

Question 28

Do you have any comments on the problem definition provided in the Impact Assessment?

Are the policy issues that have been highlighted, in your view, the correct ones? If not, what issues would you highlight?

Do you have any views on the identified benefits and costs associated with each policy option?

Is there data or evidence on the highlighted impacts that you believe needs to be taken into account?

Do you have any views on the possible impacts for providers of underlying investments for multi-option products, and in particular indirect impacts for manufacturers of underlying investments used by these products, including where these manufacturers benefit from the arrangements foreseen until the end of 2019 under Article 32 of the PRIIPs Regulation?

Are there significant impacts you are aware of that have not been addressed in the Impact Assessment? Please provide data on their scale and extent as far as possible.

<ESMA_QUESTION_PRIIPS_28>

No response for the moment.

<ESMA_QUESTION_PRIIPS_28>

