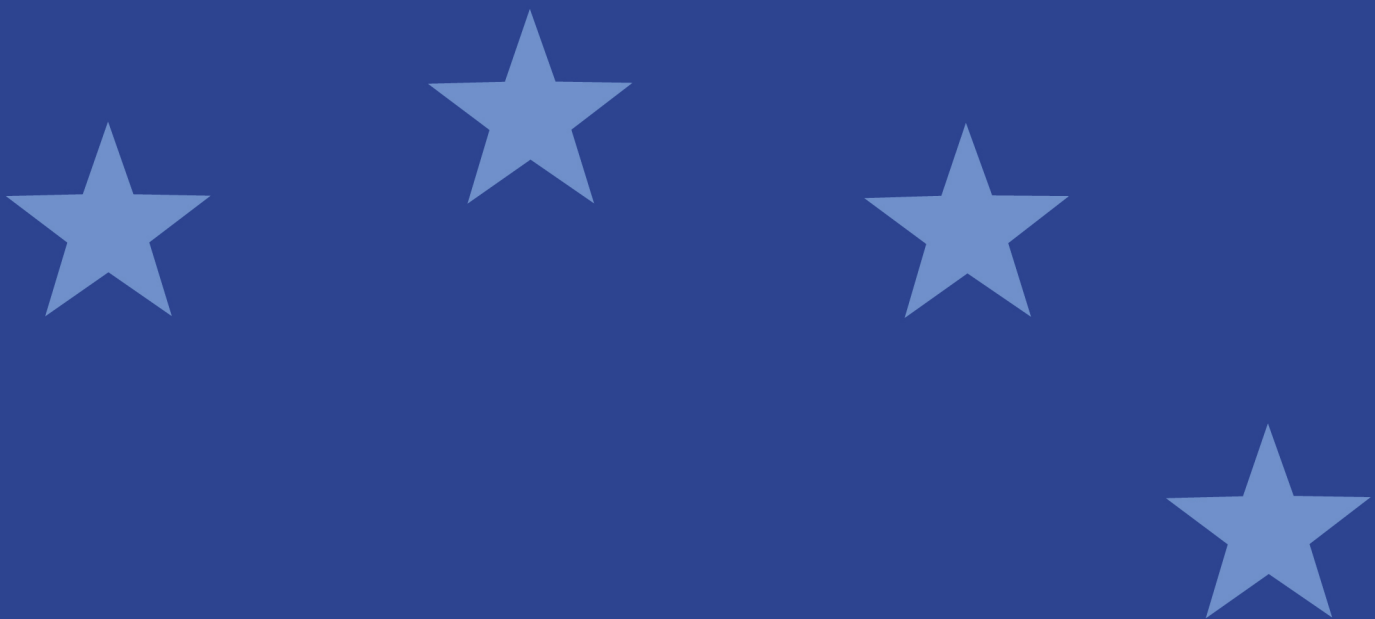




European Securities and
Markets Authority

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>

PRIIPs should be coordinated with MiFID II due to the overlaps in the legislation and for this reason we would encourage a postponement of PRIIPs to align the entry into force with MiFID II and to allow fruitful coordination of the legislative acts. Moreover, taken into account the fact that there has been a delay at the ESA's level and there were certain errors in the consultation paper itself (in the risk/reward section) and a correction was only published on 05 January, we would like to point out that the already tight deadlines become even more challenging and leaving in the best case scenario only 6-7 months for the financial sector to implement the requirements coming out from PRIIPs and RTS which are rather complex (especially with regard to the risk calculations).

Scope

-Product scope

Derivatives that are entered for hedging purposes:

In our opinion there still remains uncertainty regarding the scope for PRIIPs Key Information Documents. According to EU Regulation no. 1286/2014 a PRIIP is an investment product, and throughout the recitals and articles an investment with the purpose of obtaining a return based on a risk taken (speculation) seems to be in focus.

In Annex II, Part 1, 9(c) it is highlighted that all derivatives as defined in MiFID II are in the scope. But there is still no clarity as to whether derivatives are in the scope regardless of the underlying purpose – speculation vs respectively hedging (of commercial and/or investment risk). If derivatives used for hedging purposes are in the scope, the format and information contained in the KID will be misleading, as the purpose of the hedging strategy is to obtain exactly the opposite result of the derivative as a stand-alone investment.

Next to this, OTC derivatives that are used for hedging are agreed on a bilateral basis where one could wonder what is the added value of KID in a situation where all the transaction details are tailor-made and agreed with the counterparty. Moreover, we also fear that imposing a KID for OTC derivatives will simply be a not workable solution in practice.

Furthermore, the performance of any risk and cost analysis and scenarios in relation to derivatives entered into for hedging purposes would not be possible in accordance with the terms of the Regulation and the Discussion Paper proposals, as the hedging derivative only makes sense (in

terms of risks and costs) in the context of the principal product to which it is linked. As such, even if the KID could be adapted to suit a derivative entered into for hedging purposes, the information contained therein will be misleading for the client.

Commercial hedging uses various derivatives, because banks provide this service, so the hedging client avoids the risk, when running a cross border business. If the cost associated and the administrative complications are too large, there is a risk of the banks only offering customized derivatives to very large corporate clients. Small and medium sized corporations will then only have access to standardized derivatives leaving them in a situation where they will either have to take too large a hedging position (=a speculative position in the derivative for the surplus) or an insufficient hedging position leaving them with a residual of the commercial risk of running a cross border operation.

Additionally, if the ESAs consider that hedging derivatives fall within the scope of the Regulation, it should be confirmed if pure protection life insurance or any other pure insurance are also into the scope of the Regulation as the purpose of both kind of contracts (insurance and financial instruments) is the same: the hedging of underlying risks.

Corporate Bonds with floating interest rate: This another example as according 4 (1) of the Regulation, a financial instrument is a PRIIP if “the amount repayable to the retail investor is subject to fluctuations because of the exposure to reference values or to the performance of one or more assets which are not directly purchased by the retail investor”. Taking into account this definition a bond where the coupons are linked to a floating interest rate such as Euribor may be captured under the obligations of this Regulation. This product is not exempted in article 2 (where deposit that are not structured deposits are considered not-PRIIP product) and it is not mentioned in Recital (7) where “sovereign bond” are not considered as PRIIPs because the asset is held directly. Corporate bonds should be without doubt out of the obligations of this Regulation, as long as their return is linked to a fixed rate or a floating public rate like the Euribor, Libor...to be consistent with the treatment of similar products. The impact of manufacturers having to prepare a KID would be high and contrary to Capital Markets Union purpose.

In summary, stakeholders are finding difficulties providing their comments to this (and previous) consultation/discussion papers as they have doubts regarding the scope of the Regulation and, consequently, they do not know which products will be affected by their considerations.

-Territorial scope:

Another issue is the territorial scope.

“Manufacturer” definition does not include any reference to where the entity manufacturing the PRIIP is incorporated or where the PRIIS are intended to be sold.

Taking into account the “retail client” definition we do not get more clarification as under MiFID they classified as such if they do not comply with the criteria to be a professional. MiFID’s scope is limited to investment firms providing investment services or performing investment activities through the establishment of a branch in the Union, but similar limitation it is not done for manufacturers, because the scope of the Regulation is “PRIIP manufacturers and persons advising on, or selling, PRIIPs.”. Manufacturers therefore need to know the situations where they have to prepare and update the KID.

Cases that need to be clarified:

Manufacturer	Distributor	Retail Client	In Scope?
1. EEA Manufacturer	EEA Distributor	Non-EEA Client	Not Clear
2. EEA Manufacturer	Non EEA Distributor	Non-EEA Client	Not Clear
3. EEA Manufacturer	EEA Distributor	EEA Client (living outside EEA)	Not Clear

Performance Scenarios

There is a risk of the assumptions used for calculating performance scenarios are used as competitive measures. This is not sound business and regulators should be entitled to intervene, if assumptions used for the basis of calculating performance scenarios are deemed improbable/too optimistic.

It is unclear how it is ensured that the performance scenarios when taking into account that costs do not favor either a passive or active strategy. Though we agree that it does not seem possible to align assumptions for calculating performance scenarios, NCAs should be allowed to issue national binding guidelines for assumptions used for calculating performance scenarios.

Costs

It is emphasized that it is important to ensure alignment with the similar requirement under MiFID II to the highest extent possible; and bearing in mind that while KID discloses manufactures’ costs, MiFID II is regulating the costs of the firm providing investment services (such as selling the PRIIP). In our opinion spread is not a cost. Implied spread is a cost that gives the impression, that it is possible to trade at mid-price. The bid/mid spread is a measure to mitigate credit risk, that the bank would be imposed by the trade, as well as the cost of hedging the position

<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>

Some of the criteria included in Recital 18, like “which retail investors do not commonly invest” “uses a number (?) of different mechanisms” ... are not specific, not commonly used objective legal criteria

In our view, ESAs guidelines are very useful tools if they comply with three main conditions:

-If they fully respect level 1 framework, without including a new set of obligations that may go beyond the Regulation.

-If they contribute to harmonise the interpretation of current regulation across the Member State, preserving the level playing field between all firms and helping investors to receive similar documentation from all their entities. In this sense, it would be really important that prior the issuance of any potential document, the ESAs reach the greatest level of consensus between the various European authorities that would be, at the end of the day, supervising the application of the law. If such is not the case, guidelines may lead to a worse scenario.

-If they provide the necessary clarification, with specific definitions. Wide definitions or open references may lead to different interpretations and make the guidelines useless (i.e: if “*an underlying in which retail investors do not commonly invest*” is described as “*an underlying that is not normally used by the media of investors*” the criteria would be as broader as the initial text, with minor added value. Practical and specific references –i.e.: for equity linked products, if the underlying is not traded in a regulated market– or specific examples may be of greater value),

If those conditions are met, we would be in favour of the issuance of guidelines specifying further criteria. In particular, Guidelines about when the alert should be included would be helpful. These guidelines should be aligned with ESMA final Report on Guidelines on complex debt instruments and structured deposits published 01.12.15.

In any case, it would be very helpful to reach a final position on this matter after reviewing a draft of the proposal. With such document, both the ESAs and the stakeholders would be in a position to determine if those guidelines comply with the relevant conditions stated above (and any other that the ESAs may consider) and consequently, if their issuance may be of merit.

<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) Investment amounts for both Risk and reward and Costs seem adequate. Standardised amounts are given in EUR – but in non-EURO currency countries, the majority of products are denominated in local currency. Therefore we would suggest to define the equivalent amount in all possible local currencies (for countries under MIFID II rule)
- (ii) For simplicity reasons, a standardised amount for type of PRIIP as a reference for risk and reward in the performance scenarios is preferred. The optimal should be to inform according to the amount to be invested<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>

We support the distinction to be made as bootstrapping approach is too complicated. We are looking for different risks classification, not for capital requirements measures, so accuracy is as important as simplicity, and comparability between PRIIPs to be possible.

<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>

It seems adequate to use VaR of 97.5%. Five years history is proposed and this period could be longer to take into account different market situations.

<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>

The existence of a guarantee scheme changes should not be taken into account because the level of guarantee provided depends on the clients assets (where the amount invested exceeds the maximum guaranteed there is not guarantee (100.000€ in Spain...))<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>

The main purpose of KID for PRIIPs is comparability, so the result of the methodology proposed should be respected. The principal consequence of voluntary increase of the result would be to hamper the level playing field and proper comparison of similar products between banks.

<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>

The tenor is an important component of the credit risk assessment and as such it is recognized in the Capital Requirements Directive. Our suggestion would imply two steps:

- 1) Assess the CRM class as if the tenor were equal or less than 1 year (this is called “INITIAL CRM CLASS” in the table below) and
- 2) Increase the INITIAL CRM class proportionally to the tenor in a similar way as in the following table:

INITIAL CRM CLASS	FINAL CRM CLASS ACCORDING TO TENOR			
	≤ 1 YEAR	>1 and ≤ 3 YEARS	>3 and ≤ 5 YEARS	> 5 YEARS
CR1	CR1	CR1	CR2	CR2
CR2	CR2	CR2	CR3	CR4
CR3	CR3	CR3	CR4	CR5
CR4	CR4	CR5	CR5	CR6
CR5	CR5	CR6	CR6	CR6
CR6	CR6	CR6	CR6	CR6

<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>

We would propose a more granular CRM class, at least as granular as the MRM, which means considering 7 CRM levels instead of the 6 proposed in the RTS. We would also suggest more “rounded” one year PD references to assign CRM classes. Our proposal would be:

☞ For CRM Classes:

CRM CLASS	Default Probability 1 year
CR1	≤ 0.05%
CR2	>0.05% and ≤ 0.1%
CR3	>0.1% and ≤ 0.2%
CR4	>0.2% and ≤ 1.0%
CR5	>1.0% and ≤ 2.0%
CR6	>2.0% and ≤ 10.0%

CR7	> 10.0%
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☞ And for the SRI:

CRM CLASS	MRM CLASS						
	MR1	MR2	MR3	MR4	MR5	MR6	MR7
CR1	1	2	3	4	5	6	7
CR2	1	2	3	4	5	6	7
CR3	2	3	3	4	5	6	7
CR4	4	4	5	5	5	6	7
CR5	5	5	5	5	6	6	7
CR6	6	6	6	6	6	7	7
CR7	7	7	7	7	7	7	7

<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>

The allocation in class 1 for PRIIPS with capital protection during their whole lifespan and can be redeemed against their initial investment at any time over its life seems adequate.

Tenor is considered as relevant. The longer the tenor the higher loss of income of a cancellation at baseline .<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>

TYPE YOUR TEXT HERE

<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>

Yes, we think it is the most appropriate approach. Nevertheless some alternative should be provided in case there is no sufficient information to assess credit risk of the underlying PRIIP, for instance something similar to the “mandate-based approach” setting out in the BCBS document “Capital requirements for banks’ equity investments in funds”. Some penalty in the CRM should be included if the alternative proposal is used<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>

Currency should be taken into account only, e.g. for structured products, if it can materially alter the value of the guarantee if given in another currency. The fact that a product currency is different from the national currency of the investor does not affect, by itself, nor the credit neither the market risk of the product which the KIDs tries to reflect.

This aspect should be taken into account in the sales process when it entails an additional risk for the client (where the currency of the product is not a currency commonly used by the client)

<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>

We think the paper is clear enough about this issue.

For instance, in point 6 of Art. 5 it is stated that “In case the risk of the product if not held to maturity or the recommended holding period is significantly higher than the one represented in the summary risk indicator, the PRIIP manufacturer shall insert a warning about this fact in the presentation of the summary risk indicator, as set out in Annex III” . The figure in Appendix 1 also show a significant warning on this point. We think the investor must be aware of this fact when making his decision, and we agree with the fact of assessing the risk at maturity rather than at any other moment

<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>

Performance Fees should be limited to zero in case of losses because where losses should be shared with the client management costs should be much higher in order to compensate this risk.

<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>

A graph with the concrete figures in each scenario should be included.

<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 scope seems adequate as it includes all the assets.

<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>

More flexibility should be allowed in order to enable each entity to define its own price policy according to the services offered. Being constrained to standard costs for the whole industry would be damaging for both competition and products offered to the clients.

<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 use of annualised amounts seems reasonable.

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

An average retail client for investment products should easily understand the use of percentages, so this presentation seems adequate.

Taken into account that the costs alienation with rules as required by MiFID II for the packaged retail investment product is essential, the table should include both percentage figures and monetary values (MiFID II requirements where both figures are required).

<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>

The example of a graphical breakdown presentation offered on page 14 of the consultation paper adds little in terms of clarity for clients compared to a table.

It is difficult to understand how this proposal relates to the results of the consumer testing that has been undertaken with regard to drafting a KID format<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>

We don't think so. If the Kid should be a clear and no long document, the necessary information, but no more than that should be included. The tables included in Annex VII already include enough information.

<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>

One single table should be defined with data from second table, adding one column with the absolute value annualised and with no difference between two types of recurring costs (Portfolio transaction costs per year and Other recurring costs per year) <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>

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<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>

This approach mixes defined and possible costs as well as distribution and product costs. Specifically, as for mentioning distribution costs in a KID, cost information in the KID should be limited to product costs, as distribution costs may vary depending on the party distributing the product.

No differentiation should be done between one off costs, recurring and incidental costs, but total costs should be informed in order to facilitate understanding for retail clients.

<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>

The simplest logic is the preferred route. In this case it means an approach that makes use of as few assumptions as possible. This means that we would prefer to express costs as a percentage of the initial invested amount.<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>

Regarding policy issues, two of them are missed:

1.- The guidance on relaying the KID to the client remains overly general in nature, especially when it comes to situations where there is no physical meeting between the distributor and the client. The criteria mentioned in Article 20 of the draft regulation relate solely to the timing of the delivery of the KID, and do not provide guidance on any of the other practical issues which have risen in the past (and which have proven difficult to resolve), notably the manner in which the KID can be delivered to the customer (bundled with other KIDs on an accessible online location, by means of a hyperlink or as an attachment to electronic communication, etc.)

2.- Grandfathering: The question of the position as regards existing PRIIPs is complex. Where an EU manufacturer has created PRIIPs in the form of structured notes prior to the commencement date of the PRIIPs Regulation, those notes may be traded on secondary markets. As such they could be regarded as being made available to investors at the commencement date, and therefore to trigger a requirement for manufacturers to prepare KIDs. This could result in manufacturers having to prepare very large numbers of KIDs for products which are no longer offered by them. Originators of PRIIPs could eliminate this risk by ceasing to offer liquidity in their products through markets, but this would be an active detriment to investors for no benefit to anyone.

It is clear that the mere fact that a product was created before the commencement date of the PRIIPs regulation is not necessarily determinative of this point – the application of the requirement should be triggered by when the sale is made, not when the product was created. However, for products which were created before the implementation date of the regulation, and which are available to investors after that date only because there is a secondary market in them, It would be helpful to provide guidance that the mere fact that a two-way market exists in respect of an existing product does not constitute "making a product available" to retail investors if the initial offering was completed prior to the commencement date of the regulation

<ESMA_QUESTION_PRIIPS_28>

