

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





JOINT COMMITTEE OF THE EUROPEAN  
SUPERVISORY AUTHORITIES

## Responding to this paper

The European Supervisory Authorities (ESAs) welcome comments on this consultation paper setting out proposed amendments to Commission Delegated Regulation (EU) 2017/653 of 8 March 2017 (hereinafter “PRIIPs Delegated Regulation”).

The consultation package includes:

- The consultation paper
- Template for comments

The ESAs invite comments on any aspect of this paper. Comments are most helpful if they:

- contain a clear rationale; and
- describe any alternatives the ESAs should consider.

When describing alternative approaches the ESAs encourage stakeholders to consider how the approach would achieve the aims of Regulation (EU) No 1286/2014 (hereinafter “PRIIPs Regulation”).

## Instructions

In order to facilitate analysis of responses to the Consultation Paper, respondents are requested to follow the below steps when preparing and submitting their response:

- Insert your responses to the questions in the Consultation Paper in the present response form.
- Please do not remove tags of the type <ESA\_QUESTION\_PKID\_1>. Your response to each question has to be framed by the two tags corresponding to the question.
- If you do not wish to respond to a given question, please do not delete it but simply leave the text “TYPE YOUR TEXT HERE” between the tags.
- When you have drafted your response, name your response form according to the following convention: ESA\_PKID\_nameofrespondent\_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESA\_PKID\_ABCD\_RESPONSEFORM.

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<sup>1</sup> COMMISSION DELEGATED REGULATION (EU) 2017/653 of 8 March 2017 supplementing Regulation (EU) No 1286/2014 of the European Parliament and of the Council on key information documents for packaged retail and insurance-based investment products (PRIIPs) by laying down regulatory technical standards with regard to the presentation, content, review and revision of key information documents and the conditions for fulfilling the requirement to provide such documents

<sup>2</sup> Regulation (EU) No 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products (PRIIPs), OJ L 352, 9.12.2014, p. 1.

- The consultation paper is available on the websites of the three ESAs and the Joint Committee. Comments on this consultation paper can be sent using the response form, via the [ESMA website](#) under the heading 'Your input - Consultations' by **13 January 2020**.
- Contributions not provided in the template for comments, or after the deadline will not be processed.

### Publication of responses

All contributions received will be published following the close of the consultation, unless you request otherwise in the respective field in the template for comments. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with ESAs rules on public access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by ESAs Board of Appeal and the European Ombudsman.

### Data protection

The protection of individuals with regard to the processing of personal data by the ESAs is based on Regulation (EU) 2018/1725<sup>3</sup>. Further information on data protection can be found under the [Legal notice](#) section of the EBA website and under the [Legal notice](#) section of the EIOPA website and under the [Legal notice](#) section of the ESMA website.

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<sup>3</sup> Regulation (EU) 2018/1725 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, OJ L 295, 21.11.2018, p. 39.

## General information about respondent

Name of the company / organisation	CFA Institute
Activity	Other Financial service providers
Are you representing an association?	<input checked="" type="checkbox"/>
Country/Region	Europe

## Introduction

**Please make your introductory comments below, if any:**

<ESA\_COMMENT\_PKID\_1>

CFA Institute is pleased to have the opportunity to provide comments regarding the ESAs' Joint Consultation Paper concerning amendments to the PRIIPs KID.

CFA Institute is the global association of investment professionals that sets the standards for professional excellence. We are a champion for ethical behaviour in investment markets and a respected source of knowledge in the global financial community. Our mission is to lead the investment profession globally by promoting the highest standards of ethics, education, and professional excellence for the ultimate benefit of society. There are more than 168,000 CFA charterholders worldwide in 164 markets. CFA Institute has nine offices worldwide and there are 157 local member societies.

We promote, and have a keen interest in, investor protection and market integrity, as stipulated in our mission statement. Historically, we have also taken part in debates about performance and costs presentation, clarity and transparency. In particular, CFA Institute promotes the adoption of GIPS® standards, which are an investment industry standard for calculating and presenting historical investment performance.

CFA Institute has previously reported on the views we hold that reporting rules have gradually become complicated and may be suffering from a lack of consistency across the various regulatory frameworks (PRIIPs, UCITS, MiFID II (EMT), AIFMD). We understand the complexity legislators and regulators are facing as these frameworks are developing in parallel to each other. We also acknowledge, and agree with, the fact that these initiatives are all rooted in the idea that investor protection principles need to be safeguarded against past excesses observed in the financial services industry, which have resulted in severe crises and have dented the public's trust in finance professionals. Repairing this trust is of utmost importance and shall be a necessary condition if broader EU initiatives like the Capital Markets Union are to be successful. Yet, the complication of reporting we now feel may be blurring the message to investors and diminishing the benefits from enhanced transparency.

Ultimately, the objective should be for investors to have access to a large array of investment choices priced competitively (competition forces should be functional), to trust the information that is provided to them so that they can confidently make an informed decision. A lack of trust results in investors therefore resorting to the cheapest and what are perceived to be the safest solutions, which does not promote sound risk taking aimed at funding long-term projects. This short-termism and exclusive focus on costs would run contrary to the current objectives stated by the new European Commission (Economic policy and financial services).

CFA Institute, after extensive dialogue with its EU members would recommend that the implementation of PRIIPs changes not be staggered and even more crucial that for the sake of comparability, the EU NCAs do not implement the regulation at different times. A staggered approach would create an uneven playing field and a market that would lack transparency when the aim is precisely to move to a single market.

CFA Institute has the advantage of being able to access the views and opinions of its professional members when crafting its responses to important consultations such as this one. We would like to thank the numerous members and their local societies who have helped inform the responses given in this document (in particular in the UK, Netherlands, Italy, France, Germany).

This consultation also deserves a specific general comment about the various questions related to performance scenario methods and proposed alternatives. CFA Institute believes that further consultation should be considered on the performance scenarios and possible changes to the existing prescribed calculation method. Although we strongly advocate in favour of simplification and alignment between the various regulatory frameworks that deal with reporting requirements, we think different approaches to calculations could be used to reflect differences in product characteristics and asset classes. It is difficult to lump everything together and in the end, the variety of products and asset classes could warrant approaches that would better represent their intrinsic characteristics and specific behavior. As it stands, the alternative approaches explored by the ESAs in this consultation present qualities – as we recognize in our answers – but also appear to us as very equity-focused and may therefore not significantly improve on the incumbent approach from the angle of representativeness.

As further background to our answers, we would like to point out that CFA Institute has conducted a EU-wide survey of its membership in December 2019 on the topic of product governance and investor reporting regulatory requirements (see Note 1 for details). Our objective was to ask our member community how product governance, the relationship between manufacturers and distributors had evolved since the introduction of MiFID II and PRIIPs. We also wanted their views specifically on regulatory reporting requirements (like PRIIPs, UCITS) and the key information document, in order to inform our answers to this consultation. The highlights and key statistics drawn from this survey are presented below:

- 51% of respondents thought that more care is now given to product design and marketing to ensure the right products are reaching their target client base, since the introduction of MiFID II.
- 41% think MiFID II has improved the understanding distributors and advisors have of the investment products they market, thanks to more effective communication with the product manufacturers. 37% saw no change and 22% still think distributors and advisors have a poor level of understanding.
- 57% of respondents think the administrative process required to assess an investor' suitability prior to making an investment has become too complicated, should be simplified and clarified.
- 54% of respondents think investors obtain enough information, yet they think these investors are probably struggling to understand the information due to its complexity.
- 57% of respondents think the marketing rules in the EU are partially effective for the efficient cross-distribution of investment products across the Union. They say partially because of still inconsistent standards across jurisdictions due to EU directives being applied in different ways for retail and professional clients.
- 69% of respondents agree ESMA should be granted more powers to oversee the cross-distribution of investment products across the EU.
- As regards the PRIIPs Regulation (KID) and UCITS Regulation (KIID), 52% of respondents think the frameworks are partially successful, as they have improved information consistency across products and providers, but there are still large variations in the quality and standardization of information provided.
- In terms of areas needing improvements, 31% think performance scenarios are not easily understandable for the majority of investors, 24% think the RIY cost approach in the KID is not intelligible and difficult to compare, 19% think past performance information is missing.
- As regards the harmonisation of the PRIIPs KID and UCITS KIID, 53% completely agree or somewhat agree they should be unified. 10% disagree.
- As regards the featuring of past performance information, 50% of respondents think the KID should feature both past performance and performance scenarios. 38% feel only past performance should feature.
- As regards the complex question of the treatment of transaction costs in general and slippage in particular, 30% agree slippage is an integral part of the transaction costs borne by investors and should be reported in the KID (15% disagree), 31% think slippage represents market risk rather

than a cost to investments (53% disagree), 39% agree the slippage calculation method should be adjusted for OTC instruments and non-financial assets.

Overall, our answers to this consultation are built on the following underlying ideas and principles:

- We favour a simplification of rules to ensure better understanding on the part of both the manufacturers (do they feel the data produced is representative) and the investors (do they understand this information).
- We favour harmonization of reporting rules across the various regulatory frameworks to ensure consistency of information and facilitate its communication to end investors.
- We strongly favour the introduction of past performance information, also to align with the UCITS KIID. CFA Institute has developed and been promoting the adoption of the GIPS standards across the industry as a standardized way to properly represent past performance. This past performance can then be compared to performance scenarios to measure consistency and representativeness through time and across products.
- Some element of differentiation could take place on the calculation method for performance scenarios to take account of different asset class characteristics or strategy.
- The calculation and presentation of costs and the complex RIY figure could be simplified and harmonized with the standards under MiFID II.

Finally, CFA Institute would like to propose to the ESAs, if helpful, to meet with our experts and some of our members who participated in this work. This could be an opportunity to share more directly on specific aspects where the ESAs feel they would like to obtain more details about the positions we have taken.

#### Notes

1. This survey took place from 02-17 December 2019, was submitted to 12,596 individuals (all CFA Charterholders) across the EU and across a range of various financial services roles. We have obtained 527 responses for a good response rate of 5%.

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<ESA\_COMMENT\_PKID\_1>

**Q1 : Are there provisions in the PRIIPs Regulation or Delegated Regulation that hinder the use of digital solutions for the KID?**

<ESA\_QUESTION\_PKID\_1>

CFA Institute argues that the Regulation should have a different design for a Key Information Document (KID) provided in a digital form. Today, most KIDs are provided in electronic form by pdf. The Regulation does not focus on how a user reads the document on-screen, especially by using mobile devices. We believe that information shown on a screen in a vertical or portrait format does not incentivise the reader to break down the document but just to skim it through. Hence, we advocate for a separate format and design that is specific for digital use.

<ESA\_QUESTION\_PKID\_1>

**Q2 : Do you agree that it would be helpful if KIDs were published in a form that would allow for the information to be readily extracted using an IT tool?**

<ESA\_QUESTION\_PKID\_2>

Yes. PRIIPs finds its root in the rules governing general product governance arrangements between manufacturers and distributors of investment products. At the moment, the KIDs are usually produced as static documents (e.g. PDF), with a degree of customization by each firm producing them. This situation makes it difficult for aggregators, distributors, asset managers themselves and/or platforms to present the KIDs to prospective investors in an efficient and visually easy way for these potential clients to compare the different products. The possibility to extract information from the KIDs would be very convenient to build IT software, dynamic tables, which in the end would facilitate the reading of the information and permit a smoother way to compare features between products. Facilitating comparison and search tools would be valuable for clients and improve their engagement with KIDs.

<ESA\_QUESTION\_PKID\_2>

**Q3 : Do you think that the amendments proposed in the consultation paper should be implemented for existing PRIIPs as soon as possible before the end of 2021, or only at the beginning of 2022?**

<ESA\_QUESTION\_PKID\_3>

PRIIPs KID has been a difficult regulation for firms to comply with as its implementation had ramifications across the operational, risk and compliance chains. The delegated regulation (EU 2017/653) and its annexes required significant technical analysis across various departments, such as middle and front offices, trading, risk, compliance, data analytics, but also demanded that outsource service providers contributed since outsourcing arrangements mean that data is now processed across a number of internal and external parties.

While we recognise the benefits for firms to ensure that they have the proper control over the important data that is used and processed as part of their investment services, it is a difficult and oftentimes cumbersome process, especially for firms with limited resources internally. In addition, implementing multiple changes at different points of time could cause confusion for investors.

For these reasons, we would argue in favour of giving firms and the industry in general enough time to digest the proposed changes so that internal processes can be adapted.

Taking into consideration the usual administrative delays and inertia, we would therefore prefer an implementation timeline that errs on the side of caution and permits an implementation in 2022.



<ESA\_QUESTION\_PKID\_3>

**Q4 : Do you think that a graduated approach should be considered, whereby some of the requirements would be applied in a first step, followed by a second step at the beginning of 2022?**

<ESA\_QUESTION\_PKID\_4>

CFA Institute believes a gradual approach would mean the KID can keep changing its format throughout the period, causing confusions to end customers, advisors and portfolio managers who invest in PRIIPs. It could end up increasing the cost to product manufacturers and distributors as well. End-investor in general prefer to see information presented in a consistent format and this would be made more difficult if the format is continually changing.

We therefore think all changes should be applied at the same time and across Member States.

CFA Institute would also like to point out that whatever the method chosen to implement the changes, this will not be easy for firms and implementation will be cumbersome.

We would argue in favour of more consumer testing to ensure the changes will be understood, accepted and will respond to some genuine demand for enhancement on the part of consumers. ]

<ESA\_QUESTION\_PKID\_4>

**Q5 : Are there material issues that are not addressed in this consultation paper that you think should be part of this review of the PRIIPs Delegated Regulation? If so, please explain the issue and how it should be addressed.**

<ESA\_QUESTION\_PKID\_5>

] Discussing with practitioners, CFA Institute has found that the calculation of the summary risk indicator (SRI) can present challenges. It has been discussed how this indicator tends to overstate the risk represented by corporate credit as compared to equities for example, depending on how the rules are interpreted for the credit risk measure. In essence, whether credit risk is measured at the level of the product or at the level of the underlying assets does make a difference and the rules could be clarified to make sure there can no interpretational differences in this respect. This issue is also present between product types. For example, UCITS investment funds get automatically a low credit risk because of the segregated nature of their assets' custody.

More generally, the SRI could benefit from a clearer explanation so that investors are in a better position to interpret its meaning and compare between products. It is not obvious how to relate the Risk Indicator with the materiality or severity of potential losses.

It is conceptually difficult to aggregate all risks into a single measure and a single indicator for that matter. When compared with the other parts of the KID, the costs section for example shows more granularity. Perhaps one alternative approach could be to borrow from the approach used by credit rating agencies and use a combination of a number and a letter to express risk? One unit for the credit risk and one other unit for market risk.

Throughout its answers to this consultation and as a guiding principle, CFA Institute favours simplicity over complication. However, in the case of the SRI, we believe the indicator could tolerate a bit more granularity for the sake of facilitating comprehension on the part of the readers. We would be happy to discuss further with the ESAs what our thoughts are on how this granularity could be obtained without causing more complication.

] <ESA\_QUESTION\_PKID\_5>



**Q6 : Do you have comments on the modifications to the presentation of future performance scenarios being considered? Should other factors or changes be considered?**

<ESA\_QUESTION\_PKID\_6>

CFA Institute strongly advocates for the reintroduction of past performance in the Key Information Document since that is the only actual information that is provided. However, it is necessary to separate this information, which is a fact and refers to historical data, from future performance scenario, which is based on estimates. Both past performance and future performance should require different disclosures to support clear and fair communications with clients. We believe that investors would always like to see the track record of a financial product as such data gives an initial feeling about an investment.

Concerning future performance scenarios, the KID should explain, in a clear manner, the underlying assumptions that have been used to make the estimates. These should be clearly understandable to the end investor. Moreover, investors should be made aware of all limitations of forward-looking estimates.

CFA Institute has developed the Global Investment Performance Standards (GIPS®) to provide an accepted set of best practices for the calculation and presentation of past investment performance. The standards, which are voluntary, facilitate the comparison of information between financial products provided by different investment firms and enhance investor interest and confidence as well as transparency by eliminating misrepresentations and past data omissions. ]

<ESA\_QUESTION\_PKID\_6>

**Q7 : If intermediate scenarios are to be included, how should they be calculated for Category 3 PRIIPs (e.g. structured products)? If intermediate scenarios are not shown in the performance section, which performance assumption should be used for the 'What are the costs?' section?**

<ESA\_QUESTION\_PKID\_7>

CFA Institute recognises that not all products are the same. In the specific case of closed-ended products that are structurally or conceptually for buy-and-hold purposes, showing an intermediate performance scenario may create confusion and suggest that it is possible to exit the investment before the term of the product. We would suggest discriminating between those products who provide liquidity and those who do not. This presentation choice should then align with the way that costs are then shown in the Costs section.

Showing intermediate performance could be valuable in some cases. If the structured product is marketed on the basis that there will be an active secondary market, we agree that intermediate scenarios could help in guiding investors' expectations. The KID should indicate the expected returns under different scenarios for the key variables that shape the intermediate return.

<ESA\_QUESTION\_PKID\_7>

**Q8 : If a stress scenario is included in the presentation of future performance scenarios, should the methodology be modified? If so, how?**

<ESA\_QUESTION\_PKID\_8>

CFA Institute is of the view that the stress scenario does not add meaningful information to an already significant amount of information provided on potential performance scenarios. It is difficult to interpret the results from the stress scenario, whether directly to investors or to explain to intermediaries (such as distributors and advisors) how they should explain what the figures entail.

In general, CFA Institute believes that investment managers should be straightforward as regards the risks of their products. For any linear investment with no leverage, the simple answer is to explain that the entire investment is always at risk.

The other existing scenarios (moderate, favourable and unfavourable) should provide enough perspective to investors wanting an assessment of possible outcomes while markets operate under normal conditions (average liquidity, trading volumes, typical or cyclical volatility), whether these conditions are trending upwards or downwards..

<ESA\_QUESTION\_PKID\_8>

**Q9 : Do you agree with how the reference rate is specified? If not, how should it be specified?**

<ESA\_QUESTION\_PKID\_9>

The reference rate should be based on the sovereign government bond yield curve of the underlying assets' country. It is, yet, important to specify what the rate is composed of (providing both a description of the rate and the actual rate). For example, a German equity fund generating 3% more than the negative yielding German bund could earn a lower incremental return versus Italian BTPs which is arguably the correct base reference rate for a cross-border Italian investor.

The question has to be asked about products denominated in another currency than its home jurisdiction, which caused distortions to this model.

<ESA\_QUESTION\_PKID\_9>

**Q10 : The revised methodology specifies that the risk premium is determined by future expected yields. The methodology further specifies that future expected yields should be determined by the composition of the PRIIP decomposed by asset class, country and sector or rating. Do you agree with this approach? If not, what approach would you favour?**

<ESA\_QUESTION\_PKID\_10>

This methodology could appear simpler, on the surface, to understand for investors, but we believe it could also prove misleading.

It could work for developed market shares, bonds and funds, but have shortcomings for more complex products. This would not work: 1) for small companies' growth shares that would not pay dividends; 2) in the fixed income market, if we refer to 5-year history for variance, skew and kurtosis when rates may not continue to decline (the assumption should be that the rates will be constant); 3) for multi-asset portfolios when they include assets from different geographical segments of the market.

This approach would also be very resource-intensive and therefore could be difficult to implement in certain conditions.

<ESA\_QUESTION\_PKID\_10>

**Q11 : The ESAs are aware that historical dividend rates can be averaged over different time spans or that expected dividend rates can be read from market data providers or obtained from analyst reports. How should the expected dividend rates be determined?**

<ESA\_QUESTION\_PKID\_11>

Neither these two methods are perfect. A prescriptive source can create biases and have limitations. Allowing manufacturers to choose introduces another source of bias.

We would like to refer to the paragraph in our introduction about performance scenarios. Our view is that further consultation should be considered as we think different asset classes and different product types may be better served through specific approaches that recognise their differences. This comment and our views on performance scenarios is applicable for all related questions up until Q22.

<ESA\_QUESTION\_PKID\_11>

**Q12 : How should share buyback rates be estimated?**

<ESA\_QUESTION\_PKID\_12>

[TYPE YOUR TEXT HERE ]

<ESA\_QUESTION\_PKID\_12>

**Q13 : Do you agree with the approach for money-market funds? Are there other assets which may require a similar specific provisions?**

<ESA\_QUESTION\_PKID\_13>

[TYPE YOUR TEXT HERE ]

<ESA\_QUESTION\_PKID\_13>

**Q14 : The methodology proposes that the future variance be estimated from the 5-year history of daily returns. Should the volatility implied by option prices be used instead? If so, what estimate should be used if option prices are not available for a particular asset (equities namely)?**

<ESA\_QUESTION\_PKID\_14>

[Using implied volatility has two problems: 1) deciding the maturity of options that should be used; and 2) using shorter dated implied volatility could show short-term spikes even when markets are falling. Given such problems, we would recommend sticking with historical volatility.]

<ESA\_QUESTION\_PKID\_14>

**Q15 : Do you think compensatory mechanisms for unforeseen methodological faults are needed? If yes, please explain why.**

<ESA\_QUESTION\_PKID\_15>

[As expressed in our answer to question 6, CFA Institute would favour the introduction of past performance so as to give investors an appreciation of the real performance of the product.

If past performance is introduced, such as for the UCITS KIID, compensatory measures would not be necessary as investors would be in a position to directly compare the results from the models with the real-life performance of the product.

<ESA\_QUESTION\_PKID\_15>

**Q16 : Do you favour any of the options above? If so, which ones? How would you ensure that the information in the KID remains comparable for all products?**

<ESA\_QUESTION\_PKID\_16>

Please see our response to question 15. CFA Institute favours the introduction of past performance to compare products against each other and to compare ex-ante performance against ex-post performance, over compensatory mechanisms.

The probabilistic approach could make manufacturers dependent on data vendors such as Bloomberg and create an inelastic demand for their services. In addition, the outcome is not guaranteed to be meaningful. Therefore, having a standard set of rates provided by the regulator would be preferable. But they would have to be subject to the same conditions for review as manufacturers are (at least annual review, and amend if it changes materially). One thing that all options have in common as they are based on asset class vs fund data, is that assuming the same level of gross growth rate, the typical active fund will always look worse than the typical passive fund in the same category (similar gross return but higher fees).

<ESA\_QUESTION\_PKID\_16>

**Q17 : Are there any other compensatory mechanisms that could address unforeseen methodological faults? If yes, please explain the mechanism; explain how it ensures that scenario information in the KID allows investors to compare PRIIPs, and explain how the information for similar products from different manufacturers remains sufficiently consistent.**

<ESA\_QUESTION\_PKID\_17>

Please see our response to question 15. CFA Institute favours the introduction of past performance to compare products against each other and to compare ex-ante performance against ex-post performance, over compensatory mechanisms.

<ESA\_QUESTION\_PKID\_17>

**Q18 : What are your views on the use of a simplified approach such as the one detailed above, instead of the use of probabilistic methodologies with more granular asset specific requirements?**

<ESA\_QUESTION\_PKID\_18>

The use of a simplified approach based on maximum growth rates per asset classes has the benefit of radically simplifying the process for firms.

It is not obvious how clearer the message to investors becomes, though. There is a risk funds will look very similar across the board and it may become difficult to distinguish between products.

Perhaps, again, the inclusion of past performance combined with such a simplified approach would permit different levels of comparison between ex-ante and ex-post figures, would allow to calculate some form of alpha and compare this alpha among different products.

In isolation, this simplified method makes the process easier, but does not necessarily result in better information for the investors.

Among identifiable shortcomings to this method are the following:

- It could disadvantage active funds as the approach will tend to eliminate outliers
- Perhaps too simplistic, misses country specific variances, differences between large and small caps, impact of leverage.

<ESA\_QUESTION\_PKID\_18>

**Q19 : Do you consider the use of a single table of growth rates appropriate? If no, how should the methodology be amended?**

<ESA\_QUESTION\_PKID\_19>

The table of growth rates could be made more granular and refined by adding the following dimensions:

- Country
- Sub-categories of the same asset class (credit rating, seniority, industry)
- Derivatives
- Long vs short

Consumers could cope with three scenarios, e.g. a 'Best', 'Average', 'Worst', to provide a range around an average point based on long-term historical returns, but it should be clear that things might turn out better or worse than the 'Best' / 'Worst' scenarios.

We would prefer if different growth rates can be used as illustrative examples for the underlying investment in a structured product. For example, +20%, 0%, -20%. This highlights the situation where the structured product, at end of recommended holding period, will have capped returns, when the capital protection holds, and when investors will start losing money. This, as mentioned before, needs to be followed by standardised disclosure text, where consumers will be told how likely these returns will occur, and if needed seek financial advice.

<ESA\_QUESTION\_PKID\_19>

**Q20 : More generally, do your views about the use of a probabilistic methodology vary depending on the type of product (e.g. structured products vs non-structured products, short-term vs long-term products)? For which type of products do you see more challenges to define a probabilistic methodology and to present the results to investors?**

<ESA\_QUESTION\_PKID\_20>

Yes.

But this answer must discriminate according to what is meant by type of product.

A singular prescribed probabilistic method works well in reasonably homogeneous universes which generally operate in normal market conditions, such as long-only equities or fixed income with sufficient liquidity and information constantly available.

Such an approach in turn will tend to yield weaker results the more complex, less liquid the asset class or strategy is, where information is private or scarce, where transaction flows are patchy and where the investment manager skills (selection, risk management, hedging) matter more directly.

After having practiced the current approach in the PRIIPs KID with different types of investment funds, it appears that the three scenarios naturally converge over time via an asymptotic process. This result tends to neutralize the idiosyncratic factors which are most prevalent in complex products or investment funds.

This is again why we still need to integrate into the mix past performance to get a sense of how well models represent actual performance over time.

Perhaps there could be an argument in favour of differentiating the scenarios calculations based on the strategy or asset class?

More specifically, structured products would benefit from using a probabilistic methodology, as the outcome of the investment does not have a linear relationship with the performance of the underlying investment. The drawback is that consumers will unlikely be able to interpret the results easily to make a sensible decision. We prefer snapshots of how performance of underlying investment (or a range of performance) will affect the outcome, rather than over the whole probability distribution. It is then up to the consumers to see the likelihood of the illustrated market performance (or range of market performances) and make a responsible decision.

<ESA\_QUESTION\_PKID\_20>

**Q21 : Do you think these alternative approaches should be further assessed? If yes, what evidence can you provide to support these approaches or aspects of them?**

<ESA\_QUESTION\_PKID\_21>

We believe that the dividend yield model has many issues, even though it has dealt with the bias from past returns that forms into the model currently used. One issue being that these alternative approaches are inherently equity biased and could work poorly for non-equity asset classes. Hence, we would advocate for the use of other approaches which could better capture the behaviour and characteristics of other asset classes. For PRIIPs that invest in credit, interest rate or other assets, more sophisticated models may be needed as the suggested option does not fully capture mean reversion.

<ESA\_QUESTION\_PKID\_21>

**Q22 : Are there any other approaches that should be considered? What evidence are you able to provide to support these other approaches?**

<ESA\_QUESTION\_PKID\_22>

A possible approach that can be used for different types of performance disclosure for different types of PRIIPs is to have “appropriate scenarios”. These are already used by UCITS and is included in level 1 legislation. The approach consists in moving to some version of past performance for linear PRIIPs and scenarios for non-linear PRIIPs.

Alternatively, possible outcomes based on historical observations could be taken into consideration. However, structured PRIIPs would be against using past returns for a “range of outcomes”, and could therefore use their own scenarios. This would lead to no comparable disclosure.

Another method is just to use the standard growth rate concept, with figures provided by the ESAs. However, performance on a gross of fees basis would need to be reported as net scenarios in this case, and this could disadvantage active funds, which typically have higher fees.

<ESA\_QUESTION\_PKID\_22>

**Q23 : Do you think illustrative scenarios should be included in the KID as well as probabilistic scenarios for structured products?**

<ESA\_QUESTION\_PKID\_23>

CFA Institute agrees with the ESAs that illustrative scenario can be included in the KID, especially when they refer to the performance of structured products. However, probabilistic performance scenarios should also be included when available as these provide further information on which investors can rely when making an investment decision. Illustrative scenarios and probabilistic performance scenarios should not be mutually exclusive.

From a wider perspective, CFA Institute believes such an approach should not be limited in scope to structured products, but could apply as well to all types of PRIIPs.

We like this approach because of the potential to educate investors. There is a risk some investors could find the amount of text/content off-putting. It would definitely affect comparability even between products of the same type. The other problem is that, in the current context, as it is proposed only for structured products, this effectively means different type of performance disclosure for different types of PRIIPs, which could make comparability more difficult.

<ESA\_QUESTION\_PKID\_23>

**Q24 : If not, do you think illustrative scenarios should replace probabilistic scenarios for structured products?**

<ESA\_QUESTION\_PKID\_24>

CFA Institute considers that further consumer testing could be performed to ascertain how much information would be preferred by investors.

In general, yes, we do not think the probabilistic scenarios are useful for end users for structured products and therefore illustrative scenarios could replace probabilistic scenarios. It is much better to have improved standardised framework for illustrated scenarios. The text that accompanies that is critical. Policies must also be set such that product manufacturers cannot skip scenarios that illustrate potential losses.

<ESA\_QUESTION\_PKID\_24>

**Q25 : Do you agree with this approach to define PRIIPs which would show illustrative performance scenarios using the existing definition of Category 3 PRIIPs? If not, why not? Where relevant, please explain why this approach would not be appropriate for certain types of Category 3 PRIIPs?**

<ESA\_QUESTION\_PKID\_25>

Yes, we agree as the products mentioned in the text resemble structured products but they are currently captured. These types of PRIIPs products should be fallen into the scope of PRIIPs as regards the requirement to provide illustrative performance scenarios.

<ESA\_QUESTION\_PKID\_25>

**Q26 : Would you be in favour of including information on past performance in the KID?**

<ESA\_QUESTION\_PKID\_26>

CFA Institute agrees with the ESAs on the need to include past performance for both linear PRIIPs and linear investment options where it is available. While understanding that a sound methodology to increase transparency on past performance to particular products, distributing a portion of the profits to retail investors, is not yet available, we still believe that past performance should be included for every type of product offered to retail investors. We therefore encourage EIOPA to complete its test on the methodology that can be used for these products.

<ESA\_QUESTION\_PKID\_26>



**Q27 : Would your answer to the previous question be different if it were possible to amend Article 6(4) of the PRIIPs Regulation?**

<ESA\_QUESTION\_PKID\_27>

No.

Yet, space constraints on the KID form itself is a real concern. Particularly if we consider that as part of the EU's sustainable finance agenda, there will eventually be a requirement to add details of environmental and social objectives. Digital delivery/IT tools may help to alleviate this concern.

<ESA\_QUESTION\_PKID\_27>

**Q28 : Do you think that it can be more appropriate to show past performance in the form of an average (as shown in the ESA proposal for consumer testing) for certain types of PRIIPs? If so, for exactly which types of PRIIPs?**

<ESA\_QUESTION\_PKID\_28>

For those types of PRIIPs where the presentation of time-weighted returns is appropriate (typically where external flows are not controlled by the manager and where the product is not closed-end or fixed life or fixed commitment or holds illiquid investments as a significant part of the investment strategy) we believe that presenting multiple period time-weighted returns, whether 12 month periods or calendar years, as currently required in the UCITS KIID, provides comparable data across products and also provides information on the volatility of the product that is not available through the presentation of only an average return. Return and risk information are the components of the PRIIPs KID and presenting past performance as an aggregate or average number is not providing adequate recognition of the risk inherent in the products.

For products where a money-weighted (internal rate) return is appropriate, the annualised since inception return should be presented but such products, because of their unique characteristics such as start date, investment opportunities and flow pattern controlled by the manager, are unlikely to be comparable to other similarly designed products with differing characteristics. Individual periodic returns (annual or 12-month) could also be required as they are indicative of the performance of these products as intermediate measures. The use of averages since inception or rolling periods as of end of xyz month or calendar year do not provide a story that is as comprehensive or as comparable as multiple specified periods.

<ESA\_QUESTION\_PKID\_28>

**Q29 : Do you have any comments on the statement that would supplement the display of past performance (e.g. with regard to the presentation of costs which are not included in the net asset value (NAV))?**

<ESA\_QUESTION\_PKID\_29>

The investor must be able to determine what additional costs would further impact the return that they are being presented. Those indications may be qualitative, such as a performance fee is applicable for this product, or quantitative e.g. a basis point amount or an ad valorem table if relevant.

<ESA\_QUESTION\_PKID\_29>

**Q30 : Are you of the opinion that an additional narrative is required to explain the relationship between past performance and future performance scenarios?**

<ESA\_QUESTION\_PKID\_30>

Yes.

A clear explanation on the difference between past performance and future performance scenarios must be included in the KID. Past performance does not represent a guarantee of returns for the future, and must not be presented as such. The value of past performance comes from it indicating the behaviour of the product (and its manager) during the periods presented. When viewed against comparable products and relevant market indicators, past performance indicates how the product has responded to the market environment and the impact of actions the manager has taken during those periods.

An explanation as to the calculation and presentation method used for past performance should be provided. Then, some simple explanation of the performance scenarios should also be provided. This way, investors will be able to compare the two sets of figures in an informed manner.

<ESA\_QUESTION\_PKID\_30>

**Q31 : Do you see merit in further specifying the cases where the UCITS/AIF should be considered as being managed in reference to a benchmark, taking into account the provisions of the ESMA Questions and Answers on the application of the UCITS Directive<sup>4</sup>?**

<ESA\_QUESTION\_PKID\_31>

Yes, we agree with the answer provided by ESMA on question 8a of the Q&A document on the UCITS Directive (4 June 2019 | ESMA34-43-392). Additional disclosures should be provided so the investors know the management style and the important fact that the product is managed against a reference index or a benchmark.

<ESA\_QUESTION\_PKID\_31>

**Q32 : Do you see the need to add additional provisions for linear unit-linked insurance-based investment products or linear internal funds?**

<ESA\_QUESTION\_PKID\_32>

No.

<ESA\_QUESTION\_PKID\_32>

**Q33 : Do you agree that a fixed intermediate time period / exit point should be used instead of the current half the recommended holding period to better facilitate comparability?**

<ESA\_QUESTION\_PKID\_33>

Yes, such a measure could facilitate comparability and would also simplify operational processes for firms.

<ESA\_QUESTION\_PKID\_33>

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<sup>4</sup> See "Section II – Key Investor Information Document (KIID) for UCITS" (in particular, Q&A 8) of the Q&A document available at: [https://www.esma.europa.eu/sites/default/files/library/esma34-43-392\\_qa\\_ucits\\_directive.pdf](https://www.esma.europa.eu/sites/default/files/library/esma34-43-392_qa_ucits_directive.pdf)

**Q34 : In this case (of a fixed intermediate time period), do you agree to show costs if the investor would exit after 5 years for all PRIIPs with a recommended holding period of at least 8 years? Or do you prefer a different approach such as:**

<ESA\_QUESTION\_PKID\_34>

Yes, we agree that representing exit costs after 5 years would be a good time frame. However, since structured products usually have a maturity of 5/6 years, a shorter fixed intermediate time period could be used.

Please also refer to the answer we provided to question 7 on comparability.

<ESA\_QUESTION\_PKID\_34>

**Q35 : Do you think it would be relevant to either (i) use an annual average cost figure at the recommended holding period, or (ii) to present both an annual average cost figure and a total (accumulated) costs figure?**

<ESA\_QUESTION\_PKID\_35>

Both measures provide interesting information to investors, so we favour option 2 (both figures to be presented).

<ESA\_QUESTION\_PKID\_35>

**Q36 : Do you think that it would be helpful, in particular for MiFID products, to also include the total costs as a percentage of the investment amount?**

<ESA\_QUESTION\_PKID\_36>

In our introduction to this document, we mention that an important focus should be set on better harmonising standards between the various regulatory pieces that deal with regulatory reporting rules, including MiFID and the EMT template.

At the moment, there is a discrepancy between MiFID and PRIIPs on costs presentation standards. Further consistency should be sought to clarify the messaging to end-investors.

So, from the perspective of harmonisation, yes, we would support the introduction of total costs as a percentage of the investment amount.

Currently, because of the RIY indicator, investors see different numbers for the same datapoint. E.g. if one looks at cost disclosure for a given investment trust or product on a platform, they see different numbers than if they open the KID (the link to which is provided right next to the cost disclosure). This can be very confusing and would benefit from targeted amendments. In general, we have reservations about the RIY indicator – despite its rational intent to show the impact of costs over time – because it is theoretical: assumes both time horizon and a rate of return based on another theoretical assumption of the moderate performance scenario. It makes one-off costs look smaller. We understand that this is because, e.g. an entry fee of 1% of NAV then translates into impact of entry fee of e.g. 0.35% (as RIY) but if consumers find percentages hard to understand, we would expect it is even harder for them to distinguish between % of NAV and % RIY.

Again, we would advocate that additional consumer testing would be required to better comprehend investors needs when it comes to cost disclosure and what measures are found truly useful to distinguish between products.

<ESA\_QUESTION\_PKID\_36>

**Q37 : In this context, are there PRIIPs for which both performance fees and carried interests are applied?**

<ESA\_QUESTION\_PKID\_37>

We were unable to identify PRIIPs that charge both performance fees and carried interest.

<ESA\_QUESTION\_PKID\_37>

**Q38 : Do you agree with this analysis from the ESAs? If yes, what are your views on the extent to which fees related to the management of the underlying real estate assets, i.e. the properties themselves, should be taken into account in the calculation of the cost indicators?**

<ESA\_QUESTION\_PKID\_38>

Theoretically, including these costs should be fine. However, the concern is whether this cost will be so high that investors are not expecting that, and end up with massive exodus from these investments.

This is a question of whether these costs should appear in the numerator (as an investment fee) or be a deduction from the denominator (as a cost of running the asset). Our view is the latter (i.e. that they are included in net yield and not regarded as an investment fee). This does expose end-investors to potential mistreatment whereby a property fund lines its own pockets by overcharging for property services that it provides. Therefore we think the ESAs are correct to also ask for specific disclosure about how large the deduction for property management costs was and what proportion related to in-house services.

<ESA\_QUESTION\_PKID\_38>

**Q39 : Do you agree with the ESAs' preferred option 3 to revise the cost tables?**

<ESA\_QUESTION\_PKID\_39>

We have analysed this question and the proposed options from the point of view of which one consisted in the best compromise.

From this perspective and the need to harmonise with MiFID II, then yes, we agree option 3 is preferable. This is in spite of our reservations as regards the RIY calculation approach and theoretical assumptions.

Again, further consumer testing could be warranted in order to provide an informed opinion based on investor experience rather than our theoretical views on the matter.

However, option 3 remains complicated to understand for investors and runs the risk of information overkill.

<ESA\_QUESTION\_PKID\_39>

**Q40 : If not, which option do you prefer, and why?**

<ESA\_QUESTION\_PKID\_40>

Members have expressed different views on this question.

Perhaps the preferred option was not among the list proposed as members expressed in general a preference for simpler and lighter information. In general, the following summarises how respondents saw investor needs for information on costs:

Information that: (a) shows % of NAV so that the figures are consistent with MiFID II disclosure; b) then the figures for RHP/2 could be removed because this is unnecessary and too much information; c) show RIY only on a total cost basis next to a total cost indicator that is % of NAV; d) need to maintain the breakdown of individual cost components and their description.

Eventually, an further option 5 which would combine current options 3 and 4?

<ESA\_QUESTION\_PKID\_40>

**Q41 : In particular, do you think that the proposed changes to the presentation of the impact of costs on the return in percentage terms (i.e. including reduction in return before and after costs) is an improvement on the current presentation?**

<ESA\_QUESTION\_PKID\_41>

We are in favour of showing both returns net and gross of fees. All returns, whether gross or net, should be net of transaction costs in any case, as these are embedded in the management of the fund in all cases. This is the same approach prescribed under GIPS standards. There should also be a clear indication of what net and gross fees are, and their various sub-components to ensure a level playing field and comparability across regulatory frameworks and across products.

For reference, CFA Society of the UK published in December 2018 a whitepaper on Value for Money in the UK investment sector titled Value For Money: A Framework for Assessment.

<https://www.cfauk.org/media-centre/cfa-uk--proposes-new-value-for-money-framework>

In CFA UK's VFM report we advocate for showing returns net and gross of fees. In addition, CFA Institute's Guidance to Effective Investment Reporting (p14, Vj) cautions that it must be clear what net and gross figures are meant to represent.

<ESA\_QUESTION\_PKID\_41>

**Q42 : Do you have other comments on the proposed changes to the cost tables?**

<ESA\_QUESTION\_PKID\_42>

No.

<ESA\_QUESTION\_PKID\_42>

**Q43 : What are your views on the appropriate levels of these thresholds? Please provide a justification for your response.**

<ESA\_QUESTION\_PKID\_43>

As part of the answer to this question, we would like to provide a more general remark on the treatment of transaction costs in general and slippage in particular.

As expressed in our introduction to this document, the survey we have conducted of our membership in December 2019 showed that the industry is rather split on whether slippage represents a genuine transaction cost that should be reported as such to investors or rather whether it qualifies as market risk and how best execution was achieved. Further research and consultation appears to be warranted to reach a better consensus on how to process and integrate slippage and implicit costs, perhaps depending on underlying assets or strategies, liquidity and other measures which would reflect more accurately the actual implicit costs of the assets in question.

We cannot really agree on thresholds as it would introduce differential treatment between funds.

Our thoughts on this question include:

1. Implicit costs should be included. Investors need to see the impact of a fund that over-trades;
2. There are clear industry concerns about accuracy of the calculation method. We agree that principles are not necessarily the right answer as it allows managers too much room for manoeuvre but there are probably areas where rules need to be tightened up and some extra rules created for securities that do not fit within the current rules;
3. We think ruling out negative transaction costs is a bad idea as these represent a reality of investment management and trading;
4. Implicit and explicit transaction costs definitely need to be separated. This is a good proposal;
5. We cannot answer the threshold question and we think many practitioners will find this proposal would not work in practice. We are also concerned that this threshold might work against investors' best interests by discouraging managers from trading in a situation when they should be.
6. A threshold that is based on portfolio turnover (itself not being a standard metric anymore) may not be helpful. If nothing else, it would create an uneven playing field between open-ended and closed-ended funds as the former have to incur transactions with every sale/redemption.

<ESA\_QUESTION\_PKID\_43>

**Q44 : If UCITS would fall in the scope of the PRIIPs Regulation, do you agree that the coexistence of the UCITS KII (provided to professional investors under the UCITS Directive) and the PRIIPs KID (provided to retail investors under the PRIIPs Regulation) would be a negative outcome in terms of overall clarity and understandability of the EU disclosure requirements? Are you of the view that the co-legislators should therefore reconsider the need for professional investors to receive a UCITS KII, as the coexistence of a PRIIPs KID together with a UCITS KII (even if not targeted to the same types of investors) would indeed be confusing, given the differences in the way information on costs, risks and performance are presented in the documents? Alternatively, are you of the view that professional investors under the UCITS Directive should receive a PRIIPs KID (if UCITS would fall in the scope of the PRIIPs Regulation)?**

<ESA\_QUESTION\_PKID\_44>

We agree that the coexistence of the UCITS KIID and the PRIIPs KID has negative consequences in terms of clarity of the EU disclosure requirements. Currently, investment managers need to produce two

completely different documents that lead to higher costs. CFA Institute believes that a PRIIPs KID for UCITS products that is targeted to retail investors can also be produced for professional investors.

If these documents are aimed at providing clarity and allow investors to make better decisions, there is no reason to make such distinction between retail and professional investors. Provision of a UCITS KIID and a PRIIPS KID would indeed be confusing to any investor. Legislators should consider removing the requirement for the UCITS KIID to be provided to professional investors, to avoid the provision of two conflicting documents.

<ESA\_QUESTION\_PKID\_44>

**Q45 : What are your views on the issue mentioned above for regular savings plans and the potential ways to address this issue?**

<ESA\_QUESTION\_PKID\_45>

Investors who use regular savings plan should keep re-examining whether the investment options are still appropriate given the changes in the investment environment and their own personal circumstances. There is no reason why regular saving investors should not receive a KII or KIID regularly e.g. every year, and encourage them to review their current savings plan.

If transactions occur monthly this is clearly a nonsense, but there could be an argument in favour of annual updates to reflect changes in performance and fees.

<ESA\_QUESTION\_PKID\_45>

**Q46 : Do you agree that these requirements from Article 4 should be extended to all types of PRIIPs, or would you consider that it should be restricted to Management Company of UCITS or AIFs?**

<ESA\_QUESTION\_PKID\_46>

The information concerned in paragraphs 6 and 2 of Article 4 in the UCITS regulation is directly pertinent for collective investment schemes, so should be limited to Management Company of UCITS or AIFs.

<ESA\_QUESTION\_PKID\_46>

**Q47 : Do you agree that this requirement should be extended to all types of PRIIPs, or would you consider that it should be restricted to Management Company of UCITS or AIF?**

<ESA\_QUESTION\_PKID\_47>

TYPE YOUR TEXT HERE

<ESA\_QUESTION\_PKID\_47>

**Q48 : Do you agree that these requirements should be extended to all types of PRIIPs, or would you consider that they should be restricted to the Management Company of the UCITS or AIF?**

<ESA\_QUESTION\_PKID\_48>

The information described in the relevant articles of the UCITS regulation are directly pertinent for collective investment schemes, so should be limited to Management Company of UCITS or AIFs.



<ESA\_QUESTION\_PKID\_48>

**Q49 : Do you have any comments on the proposed approaches in relation to the analysis and proposals in this Section, and in particular on the extent to which some of the abovementioned requirements should be extended to other types of PRIIPs?**

<ESA\_QUESTION\_PKID\_49>

[TYPE YOUR TEXT HERE ]

<ESA\_QUESTION\_PKID\_49>

**Q50 : Do you think this proposal would be an improvement on the current approach?**

<ESA\_QUESTION\_PKID\_50>

[TYPE YOUR TEXT HERE ]

<ESA\_QUESTION\_PKID\_50>

**Q51 : Do you envisage significant practical challenges to apply this approach, for example for products which allow the investor to choose between a wide range or large number of options?**

<ESA\_QUESTION\_PKID\_51>

[TYPE YOUR TEXT HERE ]

<ESA\_QUESTION\_PKID\_51>

**Q52 : Do you see any risks or issues arising from this approach in relation to consumer understanding, for instance whether the consumer will understand that other combinations of investment options are also possible?**

<ESA\_QUESTION\_PKID\_52>

[TYPE YOUR TEXT HERE ]

<ESA\_QUESTION\_PKID\_52>

**Q53 : Do you think this proposal would be an improvement on the current approach?**

<ESA\_QUESTION\_PKID\_53>

[TYPE YOUR TEXT HERE ]

<ESA\_QUESTION\_PKID\_53>

**Q54 : Are there other approaches or revisions to the requirements for MOPs that should be considered?**

<ESA\_QUESTION\_PKID\_54>

[TYPE YOUR TEXT HERE ]

<ESA\_QUESTION\_PKID\_54>

**Q55 : Do you have any comments on the preliminary assessment of costs and benefits?**

<ESA\_QUESTION\_PKID\_55>

[TYPE YOUR TEXT HERE ]

<ESA\_QUESTION\_PKID\_55>

**Q56 : Are you able to provide information on the implementation costs of the proposed changes, in particular regarding, (1) the proposed revised methodology for performance scenarios (using a reference rate and asset specific risk premia), and (2) the overall changes to the KID template?**

<ESA\_QUESTION\_PKID\_56>  
[TYPE YOUR TEXT HERE ]  
<ESA\_QUESTION\_PKID\_56>

**Q57 : Are there significant benefits or costs you are aware of that have not been addressed?**

<ESA\_QUESTION\_PKID\_57>  
[TYPE YOUR TEXT HERE ]  
<ESA\_QUESTION\_PKID\_57>