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| 10 November 2015 |

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| Reply form for the  Consultation Paper on PRIIPs Key Information Documents |
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| Date: 10 November 2015 |

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](http://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](http://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>

This is a joint response from Aegon UK and Aegon Ireland.

1 Timing of implementation

We recognise the significant efforts the ESAs have taken to produce the draft Regulatory Technical Standards (RTS) in what is clearly a very complex area; in particular, for a multiple option product (MOP).

In light of the current proposal for the MOP KID, we believe the industry should have an opportunity to consider and propose alternatives.

Member State Regulators will need to formally consult on amending their existing pre-sale disclosure rules following the finalised PRIIPS RTS, after which PRIIPs manufacturers will need to make their own plans for implementation. We believe the deadline of 31 December 2016 for implementation cannot now be met for firms and regulators in a way that allows for an appropriate transition to the new regime.

We have considered the timescale for the introduction of the UCITS KIID and how the remaining timeframe for the PRIIPs KID compares. The PRIIPs KID is considerably more complex to prepare and we would ask that the lead-in time for implementation can reflect this. We are in agreement with the position statement made by Insurance Europe on 12 January 2016, which calls for a one-year delay to implementation. We would therefore also ask for a one-year delay to implementation, which assumes the RTS and domestic rules are finalised in 2016.

We would also ask the ESAs to consider the position of manufacturers / product providers, who may not reasonably be able to justify to their Boards to act (that is, commit resource and make major operational decisions) on these RTS proposals. Key decision-makers need certainty, which certainty can only come with a clear set of finalised RTS, otherwise manufacturers / providers run the significant risk of committing resource ahead of final rules which may be different from those in draft. Any use of resource is a cost that must be passed on to customers.

We propose an alternative to the MOP KID in our response, which removes some of the onerousness of the existing proposal (from a UK perspective) and should provide a workable way forward. We note the findings of the consumer testing suggested that ‘the generic KID should be showing ranges of possible values, rather than the values associated with a typical option’. We believe a simplification of the MOP KID could overcome many, but not all, of the implementation challenges. Again, we can only act once we have finalised RTS and we would encourage the ESAs to work with firms and National regulators to find a way forward with a timescale that is achievable, as well as ensuring consumers, evidenced by testing, can understand the options that are available to them.

One issue we have identified is contracts that are being considered around the end of 2016, but are not actually entered into until some time in 2017. We are concerned about the customer experience in moving from one disclosure regime, to another which may require the process to be interrupted to provide the new PRIIPs KIDs for all available fund options. One solution would be to prepare the relevant KIDs ahead of 31 December 2016; however, this would obviously shorten an already unfeasible timescale even further. Another option, as allowed for in the Regulation, is to provide the KID after the transaction is concluded; however, this does not seem to us to be a good customer experience. We would welcome the ESAs thoughts on this particular scenario, deemed as ‘pipeline’ business in the UK.

2 Existing Business

At the public hearing on 9 December 2015, a question was highlighted over ‘grandfathering’ and whether KIDs will be required for all existing products on 1 January 2017. By existing products we mean policies (or legal contracts) that are issued before the KID implementation date. We understand that pre-contractual information may not be needed for closed business which is only open to increments / top-ups, with a question remaining over whether closed business could be traded on secondary markets.

PRIIP manufacturers / providers may need to take a view that, due to the uncertainty, the cost (as recognised in the draft RTS under the ‘Lack of Grandfathering’ section) and timescale for implementation, they simply close certain books of business to all future premiums, including for increments / top-ups. While this will lead to consumers no longer having access to those products, arguably creating detriment for them, PRIIP manufacturers will need to weigh up the cost of implementation for those books of business against the benefits of the new disclosure. We would argue these costs far outweigh any benefit to existing customers, who may derive no value from receiving the KID for their existing product. In addition, if the cost of implementation is shared across all customers, this would be perceived as unfair as some customers would be paying for changes to disclosure for products they cannot access, being closed to new business.

We would argue that closed products, that are open only to increments / top ups where this does not require a new contract and where they are not traded on secondary markets, should not need a KID. If the ESAs are in agreement with this principle, we would ask that the ESAs clearly articulate this, otherwise it could lead to considerable confusion in the market, with PRIIP manufacturers potentially taking different approaches.

3 Existing Disclosure Regime

Providers of life insurance investments products in the UK and Ireland are currently required to provide customers with tailored (or ‘personalised’) pre-sale disclosure material prior to the customer investing in the product. This tailored disclosure material is personalised to take account of the customer’s age, exact investment amount, exact product level fees including commission, if relevant, and the adviser charge, if the provider is facilitating payment of the adviser’s fee.

We are considering the impact to existing tailored / personalised disclosure regimes in the UK and Germany with the introduction of the PRIIPS KID. At this stage, it is not clear what element of the existing tailored / personalised disclosure regimes will continue to apply following the implementation of the PRIIPS KID. We see considerable risk in overloading the consumer with too much information pre-sale, when considering different methodologies that will apply under PRIIPs and existing National disclosure regimes.

There is a risk that inconsistencies may arise due to different National regulators taking different approaches to pre-sale personalised disclosure and how that sits with the KID. In particular, this could create inconsistencies for cross border insurers who are selling the same life insurance investment product in different jurisdictions. This would seem to thwart a key objective of the KID Regulation for co-ordinated disclosures.

4 Personalising the KID

The extent to which the KID can be personalised is not clear. If providers take different approaches in this area then it could result in confusion among customers and defeat one of the purposes of KID. Further guidance from ESA required in this area: Should be noted that variables for single premium life insurance include:

* + The amount of the premium
  + Age of the customer (relevant for level of biometric risk benefits and products that, for example, provide the customer with an income for life but are not taxed as pension products)
  + Adviser charges or commission (that can and will vary between intermediaries)
  + Product charges (that can vary depending by level of premium and by fund size)
  + Underlying investment (many products allow customers into wide range of assets from a variety of different fund managers, many of which are external to the PRIIP manufacturer)
  + Charges associated with underlying investment (the fees associated with the underlying investment can also vary depending on the size of the investment and special terms that have been agreed between the manufacturer and distributor)
  + Products that offer additional riders or guarantees (such as a guaranteed death benefit)

The premium assumptions in the draft RTS may not be appropriate for a particular product; in particular, they will be too low for some of the products that we offer (where the average single premium, depending on the product, can be between 50,000 and 250,000 euro). However, we acknowledge that if the KID becomes completely personalised, as for the Key Features documents in the UK, there is a risk of a lack of comparability which may lead to customer detriment.

We are concerned that consumers may become confused with the KID and the more personalised pre-sale documentation.

We would welcome a clear statement from the ESAs as to degree to which a KID can be personalised, or at least tailored to suit the specific nature of each PRIIP for the intended target market.

Another area of personalisation is in relation to a particular product where the customer has the ability to take ad hoc withdrawals. We assume we will not be required to issue a new KID in this circumstance.

5 Use of Different Methodologies

We foresee significant risk of consumer confusion if different providers are using different assumptions in respect of the performance scenarios that must be applied in the KID. In addition, we wonder how the requirements of the RTS will compare to that required for disclosure under the Solvency II regime and the Insurance Distribution Directive.

Depending on the level of detail provided by the ESAs (in terms of scenarios and assumptions), there is clear scope for providers to take different approaches. Consumers could be faced with very different KID disclosures when comparing identical products from different providers. This also creates the risk of regulatory arbitrage, where one product is seen as more advantageous than another due to more optimistic assumptions underlying the performance scenarios.

In addition, different approaches will create further requirements for National regulators and may well introduce legal risk to manufacturers / providers whose assumptions are more optimistic than that of their competitors.

We recommend the ESAs give the discretion over assumptions to National regulators, who would then set domestic standards.

6 Product Scope

We have found the assessment of products within the scope of the PRIIPs Regulation in the November 2014 Discussion Paper very useful, although acknowledge it is not an exhaustive list. Further clarity on what products are in scope would be extremely useful, although we believe this should be refined at National level. In particular, there are certain products in the UK market which are not taxed as pension products but which form an important element of the retirement market and which appear to be within the scope of PRIIPS. We would ask the ESAs to clarify if it is the intention of PRIIPS to capture retirement products such as purchase life annuities which are designed to provide the customer with an income for life.

In addition, due to the significant size of the market in the UK for stocks & shares individual saving accounts (ISAs – designed to provide a tax-efficient way to save or invest – and approaching £250 billion in the UK in 2015), a clear statement on scope in relation to specific products at National level would provide important clarity to market participants.

7 Application of Complex Methodology

A general – but important – observation, is that the methodologies proposed in the draft RTS in respect of risks, costs and performance are extremely complex and PRIIP manufacturers, among other market participants, will need more time to consider the impact these will have. For example, once the RTS are finalised (and our comments under 1 above are relevant here on our desire for certainty), manufacturers will need an appropriate amount of lead-in time to

* finalise the product range to which the KID will apply;
* resource their Change programmes to prepare for implementation;
* ensure safe entry to the new regime, which will include obtaining relevant information from third parties, such as fund managers, well ahead of end-2016;
* design and implement the appropriate IT system changes, including the appropriate governance arrangements; and
* ensure the customer experience – the driving force behind these important reforms – is in line with the manufacturer’s intentions. This will include an assessment of the various disclosures in the KID to ensure it is consistent with the provider’s intentions for the target market; for example, the level(s) of the SRI(s).

We would welcome the ESAs providing examples of how they see the KID will operate in practice and the key areas consumers should focus on, and those where they will need a more personalised form of disclosure to better reflect their own position.

Risk Methodology

* Methodologies for calculating risk are particularly complex. We note from the consumer testing that ‘simpler approaches were associated with better comprehension of key information than more complex approaches’. In addition, we note that for the summary risk indicator, ‘consumers found these specific forms of risk nonetheless difficult to understand and combine’. This research has clearly been invaluable in arriving at a proposed disclosures and a key question for us is whether the proposed presentation really allows the consumer to appreciate the market and credit risks to which their investments may be exposed.  
    
  We recommend the ESAs use a market risk measure only at this stage, akin to the UCITS KIID, with a harmonised introduction of a more complex measure (if desirable) across all PRIIPs at an appropriate point. This would allow a more co-ordinated approach to disclosures, albeit on a phased basis; but one that can allow all market participants to implement safely, given an appropriate lead-in time.  
    
  It would be helpful if the ESAs could publish case studies to allow PRIIP manufacturers to better understand how these methodologies should be applied in practice and how their products are likely to be classified. On the current timetable, even if achievable, manufacturers will only know what the summary risk indicator (SRI) is very close to the implementation date. The resulting SRI may not be in line with the manufacturer’s intentions for the target market, with little – if any – time to effect change, as this would involve adjusting the underlying market / credit exposures to desired levels or removal of the PRIIP entirely from the manufacturer’s offerings. It will be important that the ESAs allow time for providers to assess the SRIs to ensure the resulting KID / SRI meets the intentions for the target market and to take any actions as appropriate.
* It is common for life insurance investment products to offer additional rider benefits (such as guaranteed death benefit which may or may not be selected). In this case, it is not clear if two separate KIDs will be needed; it would be helpful if the ESAs could provide further clarification. Alternatively, this is one area that could be left to the discretion of National regulators.

Charges Methodology:

* The formula underpinning the biometric risk disclosure in the draft RTS appears to be very complicated and we would question whether it will be understandable to customers. We note that variants of cost disclosures were tested in the quantitative research, but are unsure whether consumer reactions to the identification of biometric risk costs were included. We believe this is a key aspect that needs to be considered. If this aspect was not specifically tested with consumers, we believe this is a key area that should be. Consumer reaction to this disclosure is highly uncertain.
* In some Member States commission payments have been banned while, in others, commission can still be paid to intermediaries. For example, in the UK, advisers when giving advice (as opposed to execution-only transactions where no advice is given) can only be remunerated by adviser charges which can be facilitated from the product by the manufacturer, but which must be taken separately from product charges. It is not clear if adviser charges which, in the UK, are not product charges should be included within the KID. Have the ESAs considered this element?

Performance Methodology

* Annex V of the draft RTS refers to Annex Y Part 1. However, there does not appear to be an Annex Y included in the draft RTS. Could the ESAs clarify what this refers to, or whether there is an error in drafting.
* Article 6 of Level II text states that the ESAs will establish guidelines setting out detailed requirements on assumptions manufacturers can use. Annex IV states that it is up to the manufacturer to pick assumptions based on reasonable and conservative assumptions. It is not clear what the intention is here and if we should expect further guidance.
* In relation to the 4th scenario, there’s no definition of what is meant by an “insured event”. We ask the ESA to clarify, otherwise it could lead to providers taking different interpretations.
* In relation to scenarios, and in particular, unfavourable scenarios, it’s not clear if manufacturers must always use a negative rate of return (zero or below) or whether manufactures could construct portfolio with unfavourable scenarios that still deliver a positive return, after charges.

8 Multiple Option Products

We have significant concerns over the current proposal, as detailed in Articles 12-14 of the draft RTS for the approach to MOP KIDs. Some MOPs will have hundreds or possibly thousands of underlying investment funds. We would ask that the ESAs do not underestimate the onerousness of constructing and supplying the relevant information. These concerns also extend to the review, revision and republication requirements in draft RTS Articles 16-19.

However, the explanatory text on page 74 of the Joint Consultation Paper seems to offer up a way forward that could be easily, and usefully, extended to products where several fund options are available to the consumer. The concept of ‘adventurous or ‘moderate’ is fundamentally an assessment concerning the risk of the portfolio. If the ESAs accept our proposal, in 7 above, that only the Market Risk Measure (MRM) is used for the time being, then investment funds may most easily be assessed and placed into ‘buckets’ of risk consistent with the MRM approach. To reiterate our view, we think at least at this stage, the introduction of credit risk into the SRI introduces unnecessary complexity, which may not be well understood by consumers when combined with market risk.

This would also address a more general concern around the amount of pre-sale disclosure material consumers are faced with in assessing their options. If consumers find the amount of material they have to review overwhelming, they may simply choose not to engage, which would be an undesirable outcome.

We would also welcome agreed terminology in terms of the PRIIP manufacturer. With a MOP, it may be each external fund manager is a PRIIP manufacturer, but the product provider who packages up the funds into a MOP may itself be a PRIIP manufacturer. We will need to be clear on where responsibilities lie. For example, it may be a condition of MOP provider in offering a fund manager’s investment options though a MOP that the fund manager supplies either all the information required to construct the KID, or supplies the completed KID.

If this approach to the MOP KIDs option has appeal, and we believe it could be made to work, we would recommend the ESAs, or National regulators, produce case studies of this approach to review the outputs and clearly communicate this option for MOP disclosure. Setting out clear examples in industry-wide communications material, possibly via National regulators, would give all market participants a common understanding of requirements in this complex area.

We note the consumer would still receive personalised pre-sale disclosures, which would include their specific fund choices.

9 Transaction costs

We agree the disclosure of transaction costs is important, but it is also important to put these into some context for consumers and users of this new disclosure more generally.

At this stage, it is very difficult to tell what effect the proposed methodology would have on consumer understanding and comparability, and any behavioural reaction this may prompt. Reaction from other agencies; for example, media, will also be important; they, too will need context.

We have not seen any results from this methodology and would welcome publication of any work the ESAs may have commissioned in this area. Disclosure of investment transaction costs is notoriously complex, and in the UK market we await a DWP / FCA consultation on this topic. We would be very concerned if the disclosure at EU level was markedly different to that which is about to be proposed for the UK market. Consumers in the UK may then be faced with different disclosures of transaction costs, which could lead to some confusion.

One observation we would make is that, for a given actively managed fund with a similar risk profile and investment growth assumption to a less actively managed fund, as the transaction costs will be higher in the actively managed fund, while this will look more expensive to the consumer, arguably it could produce a better (actual) outcome. This is the context we would seek the ESAs to explore.

We believe that disclosure of transaction costs needs very careful thought and, in particular, how this can be put into that appropriate context. Many consumers may not understand what these are for and many may disengage as a result of the lack of understanding. Of course, incorporating a narrative to explain the rationale for investment transaction costs will add to the length of the KID, but consumers – and other users of this data – may simply focus on the costs that are quoted.

We recommend the ESAs consult further on a range of options, possibly based on the forthcoming UK approach to the disclosure of transaction costs. Committing to disclosure of an untried methodology may not produce the desired outcome of enhancing consumer understanding.

<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>

Yes. Clarification would be merited particularly to avoid the risk of divergence in national practice which could result in competitive disadvantage and lack of comparability.

For MOPs where a retail investor invests in a life insurance policy that gives them access to an internal fund offered by the life company, we believe it is a matter for the insurance company to determine if that internal fund is one that retail investors do not commonly invest in.

<ESMA\_QUESTION\_PRIIPS\_1>

***Question 2***

1. *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?*
2. *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>

1. Since different products will have different minimum investment requirements and the range of typical invested amounts will vary across Member States, we believe the prescribed amounts should be amended. In our opinion, it should be a matter for National regulators to prescribe the amounts, possibly following a review of typical market premium levels. Leeway for providers should also be available due to any minimum premium requirements for certain products, despite the risk of inconsistency between providers, which would result in lack of comparability.

We note that different charging structures (that is, combinations of percentage of fund based charges and monetary charges) for prescribed premium levels could have very different projected outcomes and charges as compared to the actual outcomes for the consumer; their premium levels could be very different to that in the KID.

2. One approach would be to use the required minimum premium, if this is higher than the default. However, given that typical premium levels may be significantly higher than the minimum, we would propose that typical premium levels are used instead, as in our answer to part 1.

<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 propose the publication of case studies to allow for a better understanding of the methodologies and their calculation.

<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>

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<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>

Any approach which serves to further complicate the current proposal should be avoided. The consumer testing showed a clear preference for simpler approaches, as opposed to more complex ones. The existence of a guarantee scheme may be adequately described in an accompanying narrative as a risk mitigating factor. If the risk is already mitigated by a guarantee scheme, then it becomes immaterial for the retail investor and the PRIIP should be categorised CR1.

The Solvency II regime already incentivises the diversification of insurers’ risks and ensures the financial capability of insurers to fulfil their contractual obligations, even under stressed conditions, as insurance claims take precedence over other claims.

<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 overarching requirement for the SRI should be for disclosure to provide for fair and clear representation of the risks. If the SRI measured only market risk, as we recommending, it would be difficult to envisage a circumstance where a PRIIP manufacturer should be able to increase the calculated SRI.

However, in proposing to combine market risk with credit risk, the added complexity may produce an SRI which manufacturers may feel obliged to increase on account of perceiving its risk to be higher than that of another PRIIP. An ability to increase the SRI may provide a route for manufacturers to avoid liability – we believe that few customers would complain if their PRIIP turns out to have had a lower risk than shown on the KID.

<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>

Since we are recommending the use, for the time being, of a market risk measure only, this issue would not come into play.

<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>

While the scales for each look reasonable, we would prefer an approach that is more aligned with the original UCITS KIID SRRI and, for a transitional period, just use a market risk measure. We propose the publication of case studies to allow for a better understanding across the market.

<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>

Yes. We believe the five year tenor is arbitrary, and not related to market risk. Any concerns over inflation risk may be adequately dealt with by a short statement. The recommended holding period may well be in excess of five years. Such PRIIPs should therefore be allocated MRM class 1.

It is important to separate market risk and inflation risk. Any concerns that the impact of inflation could contribute to a ‘loss’, relative to the amount invested in the PRIIP could, arguably, push such products into a higher risk category.

<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>

We would suggest that the existence of an insurance guarantee scheme could be described in an accompanying narrative and should be considered a credit risk mitigating factor. If the risk is already mitigated by a guarantee scheme, then for a retail investor, the credit risk is immaterial and the PRIIP should be categorised CR1. The Solvency II regime already results in insurance claims taking precedence over other claims against the insurance company.

We believe the simplest approach is to base the SRI on market risk only, until such time as a combined risk measure, if this is indeed desirable, can be implemented across all disclosures for all PRIIPs.

<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>

While we recommend that the risk indicator should only be based, for the time being, on market risk, if the ESAs do decide to combine market and credit risk, this approach to the assessment seems appropriate, although we would welcome publication of guidance on how this is to operate in practice.

<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>

We suggest that this risk is included in the narrative / commentary only and not in the calculation.

<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 suggest that this is addressed in the commentary only and not the calculation as otherwise, it may lead to consumer confusion.

<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>

We suggest that further clarity is provided in relation to roles and responsibilities, in terms of who is charging the performance fee and what it is in relation to.

In addition, has the difference between absolute and relative performance been considered?

<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>

Including both a table and a graph would clearly add to the length of the KID. Given the mixed reaction from the consumer testing we do not think this is a basis to justify including both.

Our view is that a single simple graph covering all three performance scenarios would be more engaging for the consumer.

<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>

While we have more general concerns around the disclosure of transaction costs, highlighted in our introduction, we agree with the scope.

We would suggest that additional consumer testing is carried out to establish consumer understanding of the disclosure of this aspect of the KID. It would be useful if practical examples of how the methodologies work in practice could also be provided.

<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>

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<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>

There may be an unintended consequence of disclosing costs over a long term period in this way. This might have the effect of dissuading retail investors from saving. Annualised, or even monthly, costs may be preferable, although this would bear no relation to the incidence and extent of actual charges.

As these costs are not necessarily the actual costs customers will pay, having these headline figures could provide the basis for unhelpful comparison between providers, due to the nature of the charging structure and assumed premium amounts on which charges will be based.

<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>

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<ESMA\_QUESTION\_PRIIPS\_19>

***Question 20***

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

<ESMA\_QUESTION\_PRIIPS\_20>

We have concerns about retail investors’ understanding of biometric risk. There may be confusion as to why it appears in the disclosure of costs but may not be reflected in the RIY. It is quite technical in nature, and may be difficult for providers to adequately explain to a consumer’s satisfaction.

Whilst we agree it is useful to highlight in the charges section, it does however need to be understandable for retail investors. We are not in favour of the biometric risk premium being included in the RIY.

<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>

Please see our answer to question 26 as it is relevant to this question.

We would be grateful if the ESAs could clarify the intention of the table. Practical examples of the operation of the methodologies would be helpful.

<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>

Our answers to questions 18 and 26 are relevant here. We would prefer a simpler disclosure of costs, as this is what consumers seem to favour, and would propose the removal of this table. We remain concerned about the disclosure of transaction costs without appropriate context.

<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>

Taking all the proposed disclosures and additional narratives that may be required into account, we’d suggest that such information will result in the KID going beyond the stipulated 3 A4 pages. We welcome comparability but it’s unclear as to how this would be presented.

<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>

We would agree with this general approach, of reducing the amount of information consumers have to digest.

We also refer to our answer to question 26.

<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>

We note from the consumer testing there were ‘difficulties with many of the cost questions’ and that it would be helpful if there was some simplification and streamlining of the information.

We also note that a minority of participants understood that the costs shown might not represent the actual costs they have to pay. We take from this that a majority do not understand this point. While a stronger warning is recommended, we do not know if this was tested.

Although the KID is meant to be generic, consumers need to have a better understanding of the costs they actually face.

Accordingly, we would favour a shorter presentation showing only the total costs, or annualised / monthly costs, together with the RIY. For our product suite, the product costs – typically a percentage of fund – represent what the customer will actually pay. This is also reflected in the personalised disclosure documentation. For the UK this would be included in the ‘Effect of charges table’. It will be important to maintain some consistency of disclosures to avoid consumer confusion.

<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>

If this table is required, we would prefer it is kept as simple as possible. We would favour disclosure of total costs (annualised / monthly) and RIY only.

<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>

While we note the significant amount of work that has gone into the production of these RTS, and previous papers, we wonder whether the proposed RTS will actually deliver the intended outcome. A key question is whether the proposed RTS will indeed address concerns around comparability.

We accept that to enhance comparability, the intention of a static KID is a good start-point; however, as highlighted in our introduction we have major concerns over the timescale and of the scope of the proposed RTS. A different approach to both the SRI and the MOP KID, with a one-year delay, would allow a safe implementation for all industry stakeholders, giving an opportunity for further enhancements, if required, at a later stage.

We also need to consider the impact of different disclosures on consumers, as the KID is not the only document they may see moving from pre-sale to post-sale. We also have concerns over the comparability of these different documents, especially with the personalised disclosure requirements at National level. We would be interested in consumer reactions to the amount of material different parties want / need them to digest.

We have provided an alternative proposal for the MOP KID, which should remove the onerousness of that contained in the draft RTS.

Even with our proposals accepted, that includes a one-year delay to implementation assuming finalised rules through to domestic levels during 2016, we believe a significant communications exercise is required at domestic levels to ensure all industry stakeholders are aware of their roles and responsibilities.

<ESMA\_QUESTION\_PRIIPS\_28>