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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>

1. **Scope: inclusion of OTC derivatives**

Already in the previous consultation ESBG had pointed out that the specifications of the PRIIPs Regulation are in many aspects not suitable for the specifics of OTC derivatives. For this reason ESBG called against the inclusion of OTC derivatives, especially if they are purchased for hedging purposes.

ESBG understand that the Level 1 text only focuses in investment products and consequently only funded OTC derivatives (derivatives – usually implied derivatives such as CLN’s – where one of the parties makes an upfront payment to the other party on the initial date and such upfront payment is returned on the end date subject to potential reductions in accordance with the results of the derivative itself) are included within its scope. Despite the fact that in previous consultations, several sectorial associations requested a clear exemption for unfunded OTC derivatives, the ESAs has not taking it into account nor provided any detailed explanations about it in its feedback statement.

ESBG therefore request that derivatives products based on a fully collateralised transaction with an upfront payment subject to potential reduction should be the only type of OTC derivatives within the scope of the Regulation. In this vein it is worth to note that unfunded OTC derivatives are leveraged transactions with no potentially repayable cash flows, generally used with hedging purposes. In other words, there is no amount repayable to any of the parties subject to fluctuations because of exposure to reference values or to the performance of one or more assets which are not directly purchased by the retail investor as required in Article 4(1).

If there is a need for regulation in the area of OTC derivatives for hedging purposes to improve the information provided to retail investors, this should necessarily take place in a separate legislative procedure.

1. **Scope: inclusion of already existing products**

ESBG is surprised that the ESAs are considering to extend the requirement of the drafting of a KID for PRIIPs which were first offered before the 31/12/2016 and are still offered. As the comments made during the public hearings have led to large uncertainties, ESBG would ask that again in the delegated act be made clear that no KIDs have to be produced for already existing PRIIPs.

Indeed, considering that Level II requirements will be published during the first half of 2016 at the earliest, the producers of PRIIPs are already facing insurmountable problems to produce on time the KIDs for the newly issued products. It would be almost impossible to implement the PRIIPs Regulation if the manufacturers need to create a KID for existing products that are traded on secondary markets. In our view, the PRIIPs Regulation does not necessarily apply to existing products. According to Art. 34 the Regulation shall apply from 31 December 2016. This indicates that the requirements under chapter II only apply to products that are produced after that date. The requirements apply only to manufacturers of PRIIPs as defined in Art. 4 Nr. 4 which covers entities that manufacture PRIIPs (lit a) or make changes to an existing PRIIP (lit. b). The interplay of the two rules shows, that Chapter II only requires manufacturers, whose products have been manufactured after 31.12. 2016. Manufacturers, who have manufactured a product before that date, cannot be seen as a manufacturer in the sense of the Regulation. Hence the requirements of the Regulation cannot apply to existing products

This understanding is backed by the fourth sentence of recital 12:

*"The obligations under this Regulation which are laid down in the provisions on drawing up, and the rules on revision of, the key information document should apply only to the PRIIP manufacturer and should continue to apply for as long as the PRIIP is traded on secondary markets."*

The wording "should continue to apply" clearly indicates, that the requirements to draw up and to revise only continue to apply for products, for which a KID had to be drawn up when the product was manufactured (so that the requirement continues).A requirement to draw up KIDs, that were manufactured before 31.12.2016 is not mentioned in the Regulation.

Due to the immense problems it would create in practice and the aspects pointed out above, ESBG deems it imperative that the ESAs reconsider their positioning regarding the applicability of the Regulation to existing products.

If nevertheless this interpretation is maintained, the ESAs should consider more practical solutions, such as restricting the applicability to actively offered products.

1. **MiFID II delay and interconnections with PRIIPs**

It should be noted that there are strong interconnections between some of the new investor protection rules in MiFID II – such as cost disclosure, performance scenarios, target market and some other specific product governance requirements – and PRIIPs. ESBG would therefore like to draw urgent attention to the fact that a decision to delay implementation of the MiFID II investor protection rules would have strong implications for PRIIPs as well, and would in all likelihood result in manufacturers not having sufficient clarity on all the details of the PRIIP to provide all required KIDs before the end of next year.

1. **Specific comments on the Draft RTS**
2. **Market Risk Measure - "What are the risks and what could I get in return?" Article 5, Annex II & III**

ESBG supports the Regulation's overarching objective to achieve comparability among all PRIIPs and therefore considers that an objective comparability of product-specific risks cannot be guaranteed with the application of different methodologies for the calculation of the market risk. We would consider this a significant breach of Level I requirements.

Therefore, ESBG advocates applying a uniform risk-assessment method across *all* packaged products, thus creating a permeable risk classification system. This is the only way to avoid competitive distortions between different product types, and to inform retail investors in an appropriate way, prior to their investment decision. In any case, the current proposal requires modification.

The purpose of the Summary Risk Indicator prescribed in Article 8 (3) (d) of Regulation (EU) 1286/2014 is to allow retail investors a sound assessment of risks the product is exposed to, and to enable them to compare packaged products.

However, initial calculations show that a large number of packaged products is assigned to the highest risk classes. For instance, certain equity funds as well as diversified equity investments (such as those linked to the EURO STOXX 50 index) assigned to class 7 are considered to be equally risky as a leveraged knock-out certificate, for example. As a result, retail investors who are *per se* relatively risk-averse will be discouraged from investing in an equity fund – even though the fund's actual risk exposure might in fact be compatible with the investor's investment profile.

The lack of differentiation of risks involved in relatively more risky financial instruments is a problem especially for conservative investors who tend to be risk-averse- the Final Report "Consumer testing study of the possible new format and content for retail disclosures of packaged retail and insurance-based investment products" identifies conservative investors as a typical type of investor (page 61). Experience gained by savings banks in investment advisory services has shown that especially during the persistent low-interest rate environment, investors are looking for higher-yielding forms of investment – at a risk exposure they consider acceptable. Of course, equity funds are a suitable – if not indispensable – investment product for conservative investors with a correspondingly long investment horizon. Given that the current proposal does not allow for any differentiation – and hence, for an adequate assessment by investors in products exposed to relatively higher risks – retail investors with a relatively lower risk appetite may be discouraged from investing in equity funds. This is not just counter-productive to the political goal of investor protection; it also runs counter to efforts to raise the equity market propensity of retail investors in a European Capital Markets Union.

The lack of differentiation may have several causes which may be interconnected. It is obvious that the proposed volatility scaling for the purpose of allocation to MRM classes 1 to 7 is relatively granular whilst the classification in the higher risk classes is based on relatively large intervals. In this context, it is worth noting that this risk interpretation (which we believe to be inappropriate) was not subject to consultation in the discussion paper dated 17 November 2014.

We would like to draw attention to our impression that the Joint Committee is hastily cobbling together a concept. This is reflected in particular in corrections of the formulae and the missing consultation of major aspects of the new risk assessment method. This is highly inappropriate, given the importance of this issue – also with regard to potential allocation effects on the real economy over the long term.

The formulas on page 37 (point 20 to 29) need improvement from our point of view. We calculated a test case (based on a complete historic data set) that gave an unexpected result: a fund investing in emerging markets bonds and an SRRI of 4 since autumn 2013 (before: 5) would have a MRM class of 6. This seems far too high in our view.

We also consider the following issues in the VaR model as problematic:

* The “Bessel correction” (calculating the standard deviation with N-1 instead of N) is missing in the formulas for Sigma, Skew and Kurtosis. Although the impact on VaR is negligible the formulas should be consistent.
* We would prefer to use a classic time scaling like “σ√T” over “σ√M0”. A good illustration can be found in the CESR/10-673 (CESR's guidelines on the methodology for the calculation of the synthetic risk and reward indicator). It is also essential which values are supposed to be scaled and which not.
* It is not advisable to use a time scaling for the Cornish-Fisher Expansion Skew and Kurtosis: Considering a time period of 5 years (1250 days) the skew is incorporated with 1/√1250 – we think that in this case both methodology and the decision for time scaling is wrong. We suggest to leave out a time scaling for daily returns in the CF expansion.
* There is a mistake in the Cornish-Fisher Expansion: +0,474 should read -0,474. It is advisable to specify the formula for the Cornish-Fisher Expansion first and then to explain the variables used.
* VaR is calculated for a horizon of multiple years with the aid of CF-Expansion which is based on the distribution of daily returns. This appears more “precisely wrong” as “approximately accurate”. We propose using weekly returns as being used in the CESR/10-673. With weekly returns it would also make sense to use a time scaling for skew and kurtosis although the CF-Expansion would then only have a minor “expanding” effect on VaR.
* Explanations to the formulas are missing; the Annex is not detailed enough.
* We think that he formula of VaRPrice Space is wrong since log-returns are considered: It is wrong to use the second summand 0,5\*M0 \* σ2 .
* The formula for VEV is not comprehensible – a more precise explanation is necessary. CESR/10-673 can be seen as favourable in this respect.

1. **Risk categories**

Concerning the explanations for the risk category 2: We would like to ask for a more precise (tabular?) description to Annex II Part 1 (page 35 and following), Point 1b), 7, 10, 11, 20-29 and the explanatory texts: e.g. table on page 75 at the bottom.

1. **Summary cost indicators**

The costs (total costs / RIY) which have to be published in PRIIPs KID differ from the established calculation of ongoing charges that have to be published in the UCITS KID since 2011. This will not just complicate the comparison with UCITS and AIF it will also result in a lack of understanding for clients, when after the transition period a PRIIPs KID also needs to be prepared for UCITS.

1. **Identification section, article 3**

Article 3 f) provides that the basic information should include the date of creation and any other subsequent modifications. This goes beyond the requirements of the Regulation as according to article 8 paragraph 3 a) the basic information must contain only the date of the creation of the document. For instance in the case of a revised KID the date of creation of the new KID. Therefore the information of previous KID are not required under the Regulation, neither in its Article 8 nor Article 10 on the revision of the KID. It is crucial that the revised KID is conformed to the requirements of the Regulation and furthermore information on previous versions of the document are not relevant to the investor.

1. **What is this product? section, article 4**

Article 4 (4) stipulates that the KID should include information on the MiFID II target market. This is welcome as a synchronism with the MiFID II, so far as the scope is concerned, must be sought. It contains the specification but unfortunately no clear reference to the relevant provisions of MiFID II, but rather call for a consistent criteria for the determination of the target market. For some aspects (for example, "knowledge"), it is very doubtful whether they are relevant for the determination of the target market for MiFID II. To comply with MiFID II and avoid scoring contradictions, Article 4 (4) should indicate just a simple reference to article 16 para 3 MiFID II that contains the specific target market requirements. The specification of target markets should therefore exclusively take place in the context of MiFID II, because the requirements of MiFID II go beyond a mere disclosure of a target market and have an enormous importance. In addition, market participants are already conducting intensive work on the implementation of MiFID II. There is a great danger to thwart this work with new and divergent demands.

1. **Other relevant information section, article 11**

According to PRIIPs draft RTS Article 11 (3) KIDs shall include the statement that the KID is updated at least every 12 months. We assume that for most KIDs no update is required and in such cases the statement that the KID is updated at least every 12 months would be misleading. We suggest a deletion of that requirement.

1. **Review, revision and republication of the key investor document, chapter IV**

The Article 18 of the draft RTS contains no specification about what must be done with a KID that must be revised. For reasons of legal certainty, it should be clarified whether the existing KID can still be provided until the release of an updated version.

In the recital 19 of the draft RTS, it is indicated that the manufacturer of the PRIIP should have in place email mailing list of investors in case the KID has been revised. This possibility goes against the essence of the KIDs which is a pre-contractual information document, since the KID can no longer serve its purpose. The implementation of such systems would also be associated with disproportionate costs. For these reasons this passage should be removed.

1. **Article 20 duplicate**

The present draft RTS has two articles 20: “PRIIPs made available in a non-continuous manner” and “Conditions on good time”. This should be corrected in the final version.

1. **Content of the key information document (KID), Annex I**

We have serious doubts whether all the information will actually fit on three sides of A4-sized paper, as required by Article 6 (4) of the PRIIPs Regulation. This is particularly questionable because of the numerous tables and images with their supplementary explanations. Before finalising the RTS further tests should be carried out and if necessary remove certain parts of the KID that are not indispensable.

Further practical tests would also have the advantage, that the publication of “best practices” would increase legal certainty for manufacturers. If the ESAs should adhere to the opinion that derivatives fall within the scope of the Regulation, this would be of particular importance for the process of drawing up KIDs for OTC derivatives. As we have pointed our above, many requirements are not compatible with the special features of OTC derivatives. Therefore, best practices might give an indication, how to deal with these problems

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

The consultation paper is not fully consistent on this topic. For example, there are differences with regards to the treatment of hedging costs (general definition of 'fair value' on the one hand, explicit requirement for this to be counted as cost on the other). Indeed, the consultation paper implies that the fair value should correspond, for each product, to the value reported in the balance sheet of the issuer. However, the issuer's balance sheet does not show the value of all individual products issued.

In addition, the proposed treatment of spreads should probably need to be readjusted as well, depending on the outcome of the detailed assessment of cost disclosure under PRIIPs and MiFID II – where the discussions within the industry is ongoing). Furthermore, the holding period assumed for the presentation of costs would need to be aligned with the holding period used for performance scenarios (and preferably the fixed maturity date when relevant).

Overall, as the production of the KID is the sole responsibility of the manufacturer, it is essential that all listed cost items are costs of the manufacturer as it is the only ones it can be aware of.

In addition, it is absolutely paramount that there is a perfect consistency between the PRIIPs’ level 2 and 3 requirements with the product’s cost related disclosure requirements of MiFID II.

The requirement that a PRIP has the costs presented on the basis of a €10,000 investment and an insurance product on the basis of an investment of €15,000 (or partly on the basis of annual payments of €1,000) (cf. Annex VI para. 85) is also problematic. This distorts the comparability and can lead to competitive disadvantages for the products concerned. To enable true comparisons, a uniform amount of investment of €10,000 for all products should be applied. This amount would be closer to the typical orders size and thus provide a more realistic picture of the represented expected return for the investor.

<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>

As ESBG has already said in our introductory note, the remaining time for the implementation of the PRIIPs regulation is so short that we see no possibilities to implement them based on further clarifications in the form of guidelines that would be coming later in time. Each additional request would jeopardize the timely implementation (even further). For this reason, ESBG does not support it.

<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>

(i) ESBG considers it is important to have identic default amounts across all products. The opposite would be contrary to the aim of the European legislator to create a uniform KID that enables comparisons between different groups of product. This goal can only be achieved if identical assumptions are made for all the KIDs. Furthermore we are concerned that it would be detrimental for certain products such as PRIPs, as a higher default investment for insurance products, could lead to a higher returns in absolute terms. The default amount should be chosen to give a realistic image of how much the "typical" investor amount, which we consider is around €10,000.

(ii) For PRIIPs that have a fixed amount, an exception should be indeed possible.

<ESMA\_QUESTION\_PRIIPS\_2>

***Question 3***

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

<ESMA\_QUESTION\_PRIIPS\_3>

Tests have shown that both methods are leading to similar results. But because the bootstrapping approach is far more complex, ESBG supports the Cornish Fisher expansion.

<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>

We do not have an opinion on the exact confidence level. However, we believe that the confidence level proposed in the final RTS should be the same for the whole industry so there is not divergences on the methodology used. ESBG considers more important however not the ongoing risk of the product but its risks at the end of its term. Therefore it leads to non-comparable results for products with different maturities.

<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>

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<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>

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<ESMA\_QUESTION\_PRIIPS\_6>

***Question 7***

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

<ESMA\_QUESTION\_PRIIPS\_7>

Referring to the credit risk assessment proposed in the CP, a further adjustment for tenors seems not to be a sound approach, since the tenor already influences the MRM of the PRIIP. Of course, credit risk - in general - increases with longer tenors, but there is no linear relation to the credit risk, so such an adjustment could produce misleading results. In an alternative approach that we propose, the credit risk relies on the tenor (see answer to question 8).

<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>

Referring to the MRM we believe that the scale is too conservative by a considerable degree, and does not reflect the investment reality. According to the proposed methodology for the SRI, popular standard investments fall into the highest risk categories. From our point of view, a well-diversified equity investment (e.g. EURO STOXX 50 index) should be allocated somewhere in the middle of the classification scheme in order to allow a differentiation among different PRIIPs. With the proposed scheme, these investments are allocated in the highest risk classes.

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

<ESMA\_QUESTION\_PRIIPS\_8>

***Question 9***

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

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

<ESMA\_QUESTION\_PRIIPS\_9>

This approach seems to be reasonable for investors who buy a product at 100% of the nominal (e.g. primary market).In case the investor purchases a product later through the secondary market he may pay e.g. 120% of the nominal since market performance may increase the value of the product. This investor does not get 100% capital protection but only a partial protection. Therefore, there should be a difference between primary and secondary market for the MRM. The tenor is relevant because of the price impact of duration. If there is a secondary market the tenor is irrelevant because the market risk has to be taken into account anyways. And if there is no secondary market the tenor may not generate a price impact. At the end the tenor is irrelevant in both cases.

In essence, determining SRI using different (qualitative and quantitative) methodological approaches means that retail investors cannot objectively compare product-specific risks. This is why a uniform method, incorporating all product features, should be applied: this might be achieved, for example, by calculating risks on a VaR basis, applying a uniform holding period across all products.

<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>

Examples of mitigating factors for credit risk include:

- a credit risk exposure where the investor benefits from arrangements of an insurance undertaking as defined in Article 13 (1) in compliance with Article 275 of the Solvency II Directive and/or equivalent national arrangements, which could warrant allocation to credit risk class 1;

- a credit risk exposure where the investor benefits from priority ranking in case of insolvency as defined in Article 108 of the Bank Recovery and Resolution Directive (2014/59/EU), which could also warrant allocation to credit risk class 1.

<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>

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

<ESMA\_QUESTION\_PRIIPS\_11>

***Question 12***

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

<ESMA\_QUESTION\_PRIIPS\_12>

No, we do not think that the currency risk should be included in the risk indicator as it will introduce more complexity to the calculation and we will end up with a three dimension matrix. Furthermore it depends on the home currency of the investor. However, a general disclaimer could be added, giving investors a warning that they should be aware of the currency of their investment and that they should be aware that there could be a currency risk in case the product`s currency was not their home currency.

<ESMA\_QUESTION\_PRIIPS\_12>

***Question 13***

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

<ESMA\_QUESTION\_PRIIPS\_13>

No, please refer to our answer to question 9. These products could be treated the same way as Category III products.

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

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

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

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

<ESMA\_QUESTION\_PRIIPS\_13>

***Question 14***

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

<ESMA\_QUESTION\_PRIIPS\_14>

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<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>

In our view, the table contained in annex V is significantly clearer than the graphical representation. For this reason, they should be used.

Furthermore, both variants should not appear in parallel. The repetition of the identical statements in a different overview would only confuse investors and have no added value. There is also the already mentioned problem that we have serious doubts whether the required content would fit on three pages. This problem would worsen further if certain content would need to be presented <ESMA\_QUESTION\_PRIIPS\_15>

***Question 16***

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

<ESMA\_QUESTION\_PRIIPS\_16>

The decision to determine the transaction costs on the basis of standardised estimates is welcomed. It is however important that these estimates are regularly checked and adjusted if necessary.

This approach should apply not only to newly created funds, but also for existing. For the fund companies, it will be hardly possible in practice to consistently calculate the cost of the transaction. For this reason, the calculation of transaction costs for existing funds should be on the basis of estimates.

<ESMA\_QUESTION\_PRIIPS\_16>

***Question 17***

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

<ESMA\_QUESTION\_PRIIPS\_17>

ESBG agrees that the standardised values must be checked regularly. Because of the already very tight deadline for implementation, the values should be set first on level II. A set of estimations followed by guidelines should be avoided because the implementation of PRIIPs can only start if all requirements are set, and would thus further shorten the implementation of the rules.

<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>

We believe that the monetary values should reflect annualised amounts for the sake of consistency with the RIY. If all the values are shown in annualised amounts, it is not needed to include several holding periods as the amounts will not change over time.

<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>

From our point of view it will be necessary to ensure that the calculation of the fair value of biometric risk premiums through specific enough guidelines to avoid that be set higher fair value than it actually is. Because you have to include the fair value’s attributable costs in the total cost, the incentive can be very high to apply the related costs and to be assign other costs lower. This would lead to distorted representations, because the costs are represented as less than they actually are.

We question whether it is necessary that the fair value of the total cost excludes the value of the biometric risk premium. In the end, the resulting added amount can be represented in other parts such as the product description. Indeed we see no reason to exclude a portion of the costs and there should be consistency: either the full cost and the added value are displayed or neither one nor the other.

<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>

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<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>

ESBG supports a simplified version of the second table (composition of costs) where only the entry costs, exit cost and recurring costs (without disaggregation) are shown. We also support presenting costs in monetary amounts because percentages may not be easy to apprehend for many investors.

<ESMA\_QUESTION\_PRIIPS\_21>

***Question 22***

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

<ESMA\_QUESTION\_PRIIPS\_22>

No, ESBG does not support the alternative graphic presentation. Since the presentations of the performance scenarios and the costs are also in the form of a table, it makes sense to follow the same logic. If the investor can understand the logic of the three dates at the performance scenarios, he will understand the logic of the presentation of costs if it is constructed in the same form.

<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>

ESBG requests further clarity on the criteria that should be considered when choosing the “moderate scenario”. It is rather easy to decide on the favourable and unfavourable scenario. However, to choose one moderate scenario could be rather challenging in particular for certain derivatives as there are many options to exercise and therefore many different scenarios.

<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>

No, we do not support the alternative graphic presentation with a further breakdown of costs. As already stated, we prefer to simplify the costs information to: entry costs, exit costs and recurring costs only. It would however be welcomed if both tables were grouped together and take less space. However in case of merging the representation would be too complex for investors. For this reason, ESBG proposes the deletion of the second table.

<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>

ESBG does not fully understand the rationale behind proposing detail calculation for the cost free scenario and therefore does not support it.

<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>

As already indicated in our responses to the previous questions ESBG favours a shorter presentation of costs.

<ESMA\_QUESTION\_PRIIPS\_26>

***Question 27***

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

<ESMA\_QUESTION\_PRIIPS\_27>

The breakdown should include all cost information on the financial instrument which may be relevant to comply with MiFID II.

<ESMA\_QUESTION\_PRIIPS\_27>

***Question 28***

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

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

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

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

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

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

<ESMA\_QUESTION\_PRIIPS\_28>

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<ESMA\_QUESTION\_PRIIPS\_28>