Response from the ABBL to the ESAs Consultation on PRIIPS

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Introduction

The ABBL[1] has the feeling that the purpose pursued by the PRIIPS regulation is unfortunately increasingly difficult to reach in light of the complexity of producing the document and attempts to present exhaustive information in an otherwise short format.

We believe that what counts for –retail- investors is first and foremost efficient and appropriate information at the right moment in time. We also feel that generally investors are more interested in an absolute return than the cost to produce it, namely it is always better to have a return of say 10% at a cost of 2% than a return of 5% at a cost of 0.5%, all else being equal, consequently what is done with the fees is of a lesser importance, above all in a document that needs to features many considerations in a relatively short space. In addition we have realised that producing information for a public that is generally unwilling or not interested is extremely frustrating notably when cost to produce these information are prohibitive, therefore we wish to make the PRIIPS document the most useful for the investor and accordingly have its production proportionate to the key areas of interests of the majority of investors. Concretely, we think that there is an imbalance between the cost (0) of asking for more transparency and the cost to comply or meet these demands, we call for a reasonable and proportionate approach.

[1] The Luxembourg Bankers' Association (ABBL) is the professional organisation representing the majority of banks and other financial intermediaries established in Luxembourg. Its purpose lies in defending and fostering the professional interests of its members. As such, it acts as the voice of the whole sector on various matters in both national and international organisations.
The ABBL counts amongst its members' universal banks, covered bonds issuing banks, public banks, other professionals of the financial sector (PSF), financial service providers and ancillary service providers to the financial industry.

Reading the consultation document we strongly feel that references to derivatives instruments are not appropriate as these are not managed products per se, we therefore consider that CFDs or plain vanilla derivatives (call/put for example) are not and shall not be in the scope of this regulation.

We would in the end recommend 3 focus areas in the production of the final document:

- The first one would be to seek simplicity and try to rely on existing data, use simple method for computation and comparison, even if the cost to pay is that they may not fit all models;
- The second element is to always keep in mind that the document to produce is a tool to compare products with a forward-looking component, thus with a degree of uncertainty. The aim is to ensure that a "reasonable retail investor" has the possibility to discriminate among products. Focus shall be on material information of use for that purpose noting that there are additional tools of information like distributor advice or prospectuses;
- Thirdly to the maximum extent the approach for PRIIPS shall be to ensure a level playing field among products, we note in this respect that a lot of efforts have been committed to create the UCITS KID, maybe some of the outcome may be reused or leveraged for this new document.

Specific questions

Question 1: Please state your preference on the general approach how a distribution of returns should be established for the risk indicator and performance scenarios´ purposes. Include your considerations and caveats.

There may be many different situations for which one approach may be more optimal than others, but if the choice could not be left to the product manufacturer for standardisation reasons, we consider that the option b) namely stochastic modelling based on historical data is the a suitable alternative for the largest number of situations, be they for new or existing financial products, even if it may be complex and heavy to implement.

Question 2: How should the regulatory technical standards define a model and the method of choosing the model parameters for the purposes of calculating a risk measure and determining performance under a variety of scenarios ?
What should be the criteria used to specify the model? Should the model be prescribed or left to the discretion of the manufacturer ?

From our point of view the main purpose of the document is to give a reasonable retail investor the tools to discriminate among various instruments that feature similar characteristics, there are inevitable trade-offs to be made, even if form an investment perspective there are shared underlyings, but by design and legally speaking a structured note will be different from a similar investment in the form of an insurance.

In the manufacturer's perspective it would be ideal to have the computation method that best fits its investment product characteristic, however given that the purpose of the document is to inform essentially retail investors, it may be optimal to rely on a simpler and standardised approach. In our views, the characteristics that may count for retail investors are centred on volatility of returns and average return during the life of the instrument, we think that more complex information may be of low value for the majority of users therefore we see merits in having only one approach for all instruments.

Question 3: Please state your view on what benchmark should be used and why. Are there specific products or underlying investments for which a specific growth rate would be more or less applicable ?

The choice of benchmark shall either be a very basic measure to cover the largest number of instruments, for example a cash benchmark like EURIBOR, or it shall be left to the manufacturer to decide. In a standardised information fact sheet, which the PRIIPS regulation shall aim to deliver, we would envisage a scenario approach based for example on an investment amount without any type or form of adjustment. Our proposal would be to use a standardise investment of for example 10.000 euros or equivalent and then compute the various performance, risk or cost indicators accordingly. In that way it shall be easier to grasp and to compare, the alternative would be to produce one KIID document per investor with the amount to invest, what we think is totally disproportionate in terms of costs and benefits.

We would recall that the PRIIPS concerns information on a product, not on the full chain of services for which some distribution costs may also intervene, but which are independent of the product and accordingly left to disclosure by the distributor at the point of client's contact (and are different depending on the intermediary or channel used which is not manufacturer dependent) according to specific regulations like the MIFID I&II, IMD...

Question 4: What would be the most reasonable approach to specify the growth rates? Would any of these approaches not work for a specific type of product or underlying investment ?

First of all we think it shall be left to the manufacturer to choose (and be able to justify choice to its authority). Then we would tend to consider ideal to introduce the least number of estimated measures, in this case the considerations are forward looking and shall try to reduce uncertainties, options a or b appear to be the most reasonable, with a slight preference for b).

From an investor perspective, in many cases especially for retail, the metric of reference is likely to be the amount invested, not taking any other factor into consideration. The issue being: has the investor lost money or not, compared to the sum "given" to the product manager? We shall note that all things being equal these are based on estimates largely uncontrollable by the manager of the product or distributor, even risk free rate fluctuates on the medium/long run, we would therefore warn against building misleading information by regulatory design.

The Association, as everybody knows, would like to recall the extreme difficulty to guess about the future, the document risks being used against the product manufacturer therefore one shall remain on the conservative side of estimates to manage expectations.

Question 5: Please state your view on what time frame or frames should the Risk Indicator and Performance Scenarios be based.

It shall be based either on the date of maturity if the product has a predetermined life span or the time as defined by the asset manager, namely 1, 2, 3… 10 years. If a holding period is predetermined every metrics shall then be computed according to this theoretic investment life span. We note that the decision to exit prior to the date will most likely depend on a client's choice or advice by a distributor something the manufacturer cannot control, therefore it shall bear no responsibility for this and could not be liable of producing information for any date of exit.

Question 6: Do you have any views on these considerations on the assessment of credit risk, and in particular regarding the use of credit ratings ?

We are not convinced by the quest for such granularity, we would prefer to rely on wording mentioning the risk of credit default. We think that overall ratings have some positive basic informative value, but that most regulations have tried to ensure that these are no longer the sole references, therefore it may be counterintuitive to reintroduce them in this case.

Question 7: Do you agree that liquidity issues should be reflected in the risk section, in addition to clarifications provided in other section of the KID?

Not entirely. Liquidity fluctuates and as far as products are concerned it may be wiser to rely on wording mentioning this than tentatively guestimate liquidity over several years. We consider that the potential risk to rely on any given metrics that may be proved erroneous for any reasons in the future are too important to be used. Even if the document has been prepared in total good faith, it is done at the moment of issuance with the current information, liquidity may increase or decrease afterward. Finally some of the products under the PRIIPS scope may live for many many years rendering the exercise even more complex.

Question 8: Do you consider that qualitative measures such as the ones proposed are appropriate or that they need to be supplemented with some quantitative measure to some extent ?

Conceptually, we do think that if the product manufacturer has foreseen a holding period there are good reasons to do so, thus the assessments shall all refer to that point in time.

The comments presented are valid, however they fluctuate in time and it is difficult if not impossible to foresee all possibilities at the launch of a product.

Specifically, exit fees shall be disclosed, but their impact because it will depend on a decision by the investor or its representative, shall not enter into the computation of a scenario or estimates of liquidity.

Question 9: Please state your views on the most appropriate criteria and risk levels´ definition in case this approach was selected.

We are surprised by the reliance on six risk grades when after long researches and surveys the UCITS KID has 7 grades. As firms are likely to fine-tune their test (i.e. on suitability or appropriateness) on the level of risk of the instruments, it is absolutely necessary to have the same number of grades both for UCITS as for PRIPS, how can an investor compare 2 different scales of risks? Thus, it can be streamlined with investors' risk profiles, and be more understandable for clients.

In terms of potential loss, conceptually we consider that the most appropriate for this type of document shall be volatility presented in % of the reference amount, it is a useful gauge of risk that counts for the investor and shall probably better reflect the reality than an average loss that may never be confirmed.

Question 10: Please state your views on the required parameters and possible amendments to this indicator.

Option 2 may be more accurate, but probably less easy to understand by the target audience.

Question 11: Please state your views on the appropriate details to regulate this approach, should it be selected.

The Association considers that this approach is probably superior from a scientific point of view, however it may be too complex to present and explain and probably more complex to update and run. We would like to recall the purpose of the document giving information to make an informed choice by a reasonable retail investor, in that respect this one goes in our view a bit too far.

Question 12: Please state your views on the general principles of this approach, should it be selected. How would you like to see the risk measure and parameters, why ?

No, again from a scientific perspective it may be right, but too complex to run and too complex to understand, thus it risks missing its target.

Question 13: Please state your views on the potential use of a two-level indicator. What kind of differentiators should be set both for the first level and the second level of such an indicator ?

Ideally the option 1 traffic light approach although not super accurate is easy to understand by all investors, complementing it by qualitative worded information may help. This said, taking into account behavioural finance insight, it is highly likely that investors will solely focus on the easiest measure: the grades. There is however some risks that a too simplistic approach may class in different categories products that intrinsically have a similar risk profile, namely a bond fund compared to a structured note, or a guarantee, thus structured likely to be “penalised”.

Question 14: Do you have suggestions or concrete proposals on which risk scale to use and where or how the cut-off points should be determined ?

At this stage, given the level 1, we would urge to remain simple and pragmatic. The aim of the document is to help a reasonable retail investor to forge a view about products that share similar features in terms of investment scope, risks, performance… in practice what would count is likely to be summarised at: scope (in what does the product invest), what is the likely performance (base on past and or scenarios) and volatility (what would be the potential for a loss). Then complementary information may be provided by the distributor of the products in from of advice, pre-screening… or via the website of manufacturer.

Question 15: Please express your views on the assessment described above and the relative relevance of the different criteria that may be considered.

In this case we consider that the optimal approach is to build on “what ifs” scenarios developed by the manufacturer. Although products aim to be compared through the PRIIPS they are likely to remain intrinsically different, thus building on standardised scenario may not be appropriate.

Furthermore these predefined scenarios need to take into consideration at the very least the starting point in time in terms of economic environment and metrics which may require proactive and responsive attitudes. We fear that if authorities are tasked with assigning these options this may be subject to risk of challenges and therefore will over time end up evaluating products on metrics from a long gone area.

Question 16: Do you think that these principles are sufficient to avoid the risks of manufacturers presenting a non-realistic performance picture of the product? Do you think that they should be reinforced ?

Yes, they should not be reinforced.

Question 17: Do you think the options presented would represent appropriate performance scenarios? What other standardized scenarios may be fixed ?

In this case, we are not supportive of standardised scenarios, in any case option b) shall be rejected as most uncertain.

Question 18: Which percentiles do you think should be set ?

It is difficult to propose a valid response noting the vast number of different products, their features… that is why we consider this shall be left to the manufacturer of the product to define, the methodology may be disclosed/available to the relevant authority.

Question 19: Do you have any views on possible combinations ?

We think it is too complex. Manufacturers shall present 3 sets of realistic scenarios one negative, one medium and one positive, but it would be up to the manufacturer to define the criteria and in case to exchange with their competent authority (need to document the approach retained). For some structured product an additional scenario may help present a more complete view of the pay-offs.

Question 20: Do you think that credit events should be considered in the performance scenarios ?

No, these are not supposed to be part of the investment, we consider that the option shall be to base the scenarios on the assumption that the product will go through its entire life, this said may be some wording may warn of potential for credit risk.

Question 21: Do you think that such redemption events should be considered in the performance scenarios ?

We do not support this as redemption may occur at a totally unforeseeable moment and may accordingly impact differently the performance profile, which means creating as many scenarios as there may be redemption possibilities. Again reliance on some wording to warn investors may be the optimal choice in our view.

Question 22: Do you think that performance in the case of exit before the recommended holding period should be shown ?

Definitely no. The aim of presenting an expected holding period is to ensure the optimal trade-off for the investors based on information known at the moment of preparing the PRIIPS document. That decision will not be dependent upon the manufacturer that accordingly is unable to evaluate the consequence of the decision to exit. In addition there may be as many exit moments as investors and that will depend on market conditions, thus this is absolutely not optimal to offer a true perspective on a given product.

Question 23: Are the two types of entry costs listed here clear enough? Should the list be further detailed or completed (notably in the case of acquisition costs)? Should some of these costs included in the on-going charges ?

We take due note of the level 1 text, however based on our understanding of the objectives of the PRIIPS, we would tend to support the following approach which would be to offer disclosure of cost on the manufacturer website if they represent less than a given percentage of asset under management or management fee (a sentence may say: there are other fees that represent in aggregate less than X%, you may find more details on XXX website), that would ensure a form of materiality threshold satisfactory information for less sensitive users for the others they may find the information in an easy way. If these costs/fees are above that threshold then they may be disclosed on the document, this would ensure that information is always available, but that interested parties will be presented a level of information that is satisfactory for them. Concretely, it is highly likely that from an investor's perspective what would count first is absolute performance, thus if reaching 10% a year cost 3% it will always be preferred to reaching 5% at 0.5% of cost all else being equal.

The approach that we would retain would be that beyond management fee, entry and exit or in the case of insurance type of products a "vehicle or structure" fee, a sentence will clarify that there exist other fees representing less than X% for which more details are available on the manufacture website. If the X is above a certain threshold to be defined then they shall be disclosed in % format otherwise the information will be on the manufacturer's website.

Question 24: How should the list be completed? Do you think this list should explicitly mention carried interest in the case of private equity funds ?
Question 25: Should these fees be further specified ?
Question 26: Should these fees be further specified? The "recovering fees" cover the following situation: when an investor receives income from foreign investments, the third-country government may heavily tax it. Investors may be entitled to reclaim the difference but they will still lose money in the recovering process (fee to be paid).
Question 27: Should these fees be further specified? The "recovering fees" cover the following situation: when an investor receives income from foreign investments, the third-country government may heavily tax it. Investors may be entitled to reclaim the difference but they will still lose money in the recovering process (fee to be paid).

Answer to 24-27: We do not agree with the proposals, these are going in too much details, will be extremely difficult to manage on a daily basis and are overall of low informative value for most investors. We consider that the trade-off between production and usefulness of information in the context of a

PRIIPS document is not sustained. As said above from an investor perspective in most cases the results counts more than how to achieve it, namely a performance of 10% means 10% shall it cost 1% or 5% to achieve. At best the figure shall be presented in form of a TER presenting one and only number.

Question 28: This list is taken from the CESR guidelines on cost disclosure for UCITS. What is missing in the case of retail AIFs (real estate funds, private equity funds) ?
In the case of private equity funds, would it be relevant to include a breakdown of flows, distinguishing those ("out") paid by the fund for the proper functioning of its financial portfolio management from those ("in") paid by the target company for the provision of advisory services. This breakdown would allow to clarify real costs for investors (instead of only indicating the net amount), knowing that "in" will be deducted from "out").
In the case of costs of distribution, would this need to be detailed depending on the type of costs of distribution? To what extent are these costs different from the distribution fees mentioned in the Entry costs above ?

We are totally opposed to introduce in the PRIIPS document cost or fees from the distribution layer. First we consider they are not part of the product, then they may differ from one distributor to the next and finally these distributors are themselves subject to information disclosure, which under MIFID II (or IMD II) is likely to be highly comprehensive. In the end if this option were retained this would dramatically multiply the number of PRIIPS to create and maintain and is likely in the end to add to potential confusion.

Question 29: Which are the specific issues in relation to this type of costs ?

As said performance fees are based on performance, thus beyond expressing them in % and the conditions under which they may qualify is at best illusory or uninformative as performance fluctuates year after year. Conditions for computation shall be disclosed but no amount. Namely the famous 2/20% of the hedge fund industry are known and clear for most investors.

Question 30: Is it relevant to include this type of costs in the costs to be disclosed in the on-going charges? Which are the specific issues in relation to this type of costs? Which definition of Costs for capital guarantee or capital protection would you suggest? (Contribution for deposit insurance or cost of external guarantor ?)

No, the document shall be as standardised as possible these information may only be pertinent in a few cases across the whole spectrum of investment products.

Question 31: Which are the specific issues in relation to this type of costs? Should the scope of these costs be narrowed to administrative costs in connection with investments in derivative instruments? In that respect, it could be argued that margin calls itself should not be considered as costs. The possible rationale behind this reasoning would be that margin calls may result in missed revenues, since no return is realized on the cash amount that is deposited, and that:
i) No actual amount is paid to a third party. Hence, one could argue whether these should be defined as costs of investing from a fundamental point of view.
ii) It would be very challenging to quantify the actual missed revenue amount. Assumptions would be needed on the rate of return that would be realized on the deposited cash amount. Daily fluctuations in margin account balances will add to the complexity of required calculations.

Across all products we think these shall be disclosed in the PRIIPS only subject to a materiality threshold, more information may always be available on the manufacturer website, as an alternative a sentence may disclose that other costs representing less than X may be added on gross performance.

Question 32: Which are the specific issues in relation to this type of costs ? Should this type of costs be further detailed/ defined ?

We do not think these shall be disclosed as they are of low added value for the target audience. This information may be in the scope of MIFID II.

Question 33: How to deal with the uncertainty if, how and when the dividend will be paid out to the investors? Do you agree that dividends can be measured ex-post and estimated ex-ante and that estimation of future dividends for main indices are normally available ?

We consider that these are part of the performance or investment related and shall not be specifically disclosed, furthermore they may only be disclosed correctly on an ex post basis which concretely would imply managing two sets of PRIIPS for a single product one forward looking and one backward looking more akin in the end to an annual report.

Question 34: Is this description comprehensive ?

The description is comprehensive, however it may also present misleading information if not explained. Trading more is more costly, but may as well improve the performance of the investment and as mentioned earlier we tend to think that investors are, especially retail, generally more interested in absolute performance than how to achieve it. Thus if information needs to be disclose the appropriate place in our view is on the manufacturer website.

Question 35: Can you identify any difficulties with calculating and presenting explicit broker commissions? How can explicit broker commissions best be calculated ex-ante ?

Yes these figures may only be guesstimated on a forward-looking basis, we consider accordingly that they do not present reliable information for investors.

Questions 36: How can the total of costs related to transaction taxes best be calculated? How should this be done to give the best estimate ex-ante? Are there other explicit costs relating to transactions that should be identified? Do you think that ticket fees (booking fees paid to custody banks that are billed separately from the annual custodian fee paid for depositing the securities) should be added to this list ?

The only proxy available is past experience, but again this information may fluctuate in time and shall thus not be disclosed under the PRIPS unless it represents a material level.

Question 37: As regards the abovementioned estimate, can the fair value approach be used ?

We do not see the point of disclosing this information under the PRIIPS framework. We remind ESMA that information shall be presented in a usable and readable format most likely over 2 pages that means that information shall be focused on the most pertinent elements to make a reasonable choice. Other information is available in other documents or via other means.

Question 38: Can you identify any other difficulties with calculating and presenting the bid-ask spread? Do you believe broker commissions included in the spread should be disclosed? If so, which of the above mentioned approaches do you think would be more suitable for ex-ante calculations or are there alternative methods not explored above ?

From a scientific perspective this information may be pertinent but we strongly doubt that it is of any informative benefit to the vast majority of retail investors, this without even mentioning the complexity to manage, maintain and produce it.

Question 39: Do you believe that market impact costs should be part of the costs presented under the PRIIPs regulation? If so, how can the market impact costs best be calculated? How should this be done to give the best estimate ex-ante?

In an environment where investors' surveys point to the difficulties of computing simple percentages, these types of information unless they represent a material level are not appropriate or relevant information for a reasonable retail investor decision-making process.

Question 40: How should entry- and exit charges be calculated considering the different ways of charging these charges? How should this be done to give the best estimate ex-ante? Can you identify any other problems related to calculating and presenting entry- and exit fees ?

No.

Question 41: Which other technical specifications would you suggest adding to the abovementioned methodology? Which other technical issues do you identify as regards the implementation of the methodology ?

We have a very strong preference to build all the PRIIPS scenarios upon one conceptual example of an investor willing to invest for example 10.000 euros and then disclosing cost ideally in % according to that standardised amount. This would clearly improve comparability and is a figure understandable by all retail investors large and small. We note that in practice fees and costs incurred by most PRIIPS products may fluctuate and thus may be different year on year, what shall be envisaged is that these do not deviate to wildly from the "original" PRIIPS, if so these may be considered a material event triggering a PRIIPS review.

Concretely, our preferred approach would be to rely on a sentence saying that there are other costs representing less than X%, further information could be available on the manufacturer website. If costs are above that percentage then they shall be disclosed in the PRIIPS as material.

Question 42: Do you think that an explicit definition of performance fees should be included? Do you think the definition by IOSCO is relevant in the specific context of the cost disclosure of the PRIIPs Regulation ?

No, this shall be left to the manufacturer to disclose, the PRIIPS shall remain simple, and in most cases the investment product will be accompanied by other information in form of a prospectus or contract that will include this information. We do not fully share the views of the IOSCO consultation document to which we plan a response.

Question 43: What would be the appropriate assumption for the rate of returns, in general and in the specific case of the calculation of performance fees ?

Its definition shall be left to the manufacturer, however we would stress that many fees or costs will fluctuate in hard to estimate fashions (at least precisely). The investors having been informed that there are other fees may also be able to understand that in a static document some of these are impossible to predetermine precisely, which shall not impact the decision making process unless they cross materiality thresholds.

Question 44: Which option do you favour? Do you identify another possible approach to the disclosure and calculation of performance fees in the context of the KID ?

We will not opt for option 2, option 1 has our preference overall and may be the most appropriate for products where there exists a historical performance then it may be argued that option 3 may be suitable for new products where the theoretic scenarios may be accompanied with a theoretic impact of the performance fee. But Generally, because it will depend on product performance and is likely to be different each year we would warn against publication of a figure in euros and prefer to rely on % that will not change (namely a performance fee of X% of AuM will be taken each year, subject to x or y conditions).

Question 45: Which of the above mentioned options 1 and 2 for the calculation of aggregate costs would you prefer? Do you agree with above mentioned assumptions on the specificities of the costs of life-insurance products? How should the breakdown of costs showing costs specific to the insurance cover be specified? Do you think that risk-type riders (e.g. term or disability or accident insurances) have to be disregarded in the calculation of the aggregated cost indicator? How shall risk-type rider be defined in this context? (one possible approach might be: A risk-type rider in this context is an additional insurance cover without a savings element, which has separate contractual terms and separate premiums and that the customer is not obliged to buy as a compulsory part of the product).

Question 46: Do you think this list is comprehensive? Should these different types of costs be further defined ?

Question 47: Do you agree that guaranteed interest rate and surrender options should be handled in the above mentioned way? Do you know other contractual options, which have to be considered? If yes how ?

Question 48: Should the methodology for the calculation of these costs be further specified ?

Question 49: Do you think this list and breakdown is comprehensive ?

Question 50: Should the methodology for the calculation of these costs be further specified ? How ?

Question 51: Should the methodology for the calculation of these costs be further specified ? How ?

Question 52: Should the methodology for the calculation of these costs be further specified ?

Question 53: Should the methodology for the calculation of these costs be further specified? How? Do fund related costs also exist for with profit life insurance products ?

Question 54: How to ensure that the look-through approach is consistent with what is applied in the case of funds of funds ?

Question 55: Should the methodology for the calculation of these costs be further specified ?

Question 56: Which above mentioned or further options do you support, and why? More generally, how to measure costs that are passed to policy holders via profit participation mechanisms? Would you say that they are known to the insurance company? Do you think an estimate based on the previous historical data is the most appropriate methodology for the calculation of these costs ?

Question 57: Is this type of costs really specific to with-profit life-insurance products? Do you agree that these costs should be accounted for as on-going costs ?

Question 58: Do you think the list of costs of life-insurance products presented above is comprehensive? Which types of costs should be added ?

Answer from 45 – 58: These concern insurances, we are not in a position to provide comments.

Question 59: To what extent are those two approaches similar and should lead to the same results?

On an aggregated basis we expect these 2 approaches to lead to similar results, what counts in the ABBL's view is that the methodology aimed at comparing products is consistent.

Questions 60: In comparison to structured products, do you see any specificity of costs of structured deposits ?

N/a

Question 61: Do you agree with the above mentioned list of entry costs ?

We consider these are too granular and we would consider entry cost the ones paid on top of the commitment to the investment product, thus more akin to fees for retribution the distribution of the products. Furthermore unless they are aggregated they may appear too complex for disclosure at that granular level we would also dispute the fact that beyond point a) these are entry costs. In the case of CFDs or other types of derivatives we also think that they may only be relevant at the moment of issuance because these products may afterward be trade on platforms the relevance of the information is likely to decrease with time. In any case we do not support to include hedging costs that are for the protection of investors.

And generally speaking we oppose the view that these types of products are in the scope of PRIIPS because they are not “managed” product per se.

Question 62: To what extent do you think these types of costs should be further defined and detailed ?

We would exclude them.

Question 63: How would you estimate ex ante the spread referred to above in (b), in the case the product is listed as in the case it is not ?

There would be informative value in mentioning the existence of these costs, but their amount or nature may depend on market fluctuations and market context (unless predetermined and thus closer to redemption process than trading) all in all this information cannot be consistently relevant if presented in euros.

Question 64. Do you agree with the list of costs outlined above ?

Question 65. Would you include other cost components ?

Question 66. Under which hypothesis should the costs of the underlying be included ?

Question 67. How would you deal with the issue of the amortization of the entry costs during the life of the product? For derivatives it will be notably important to define what the invested capital is, in order to calculate percentages. The possibilities include: the amount paid (i.e. option premium price or initial margin/collateral) or the exposure (to be defined for optional derivatives). Do you see other possible approaches on this specific point ?

Question 68. Do you think that there are products with ongoing hedging costs (to ensure that the manufacturer is able to replicate the performance of the derivative component of the structured product) ?

Answer to 64-68: These are costs that may exist but we strongly doubt about their relevance in the context of a PRIIPS document, again unless these are part of a specific strategy and above a materiality threshold.

Question 69. Do you agree with the general framework outlined above ?

The approach makes scientific meaning but we would like to remind ESMA that the objective is to present concise and valuable information thus probably that priorities shall be attributed to the most pertinent information for the users: the investors.

As said previously we would foresee a representation of % of costs based on an investment of 10.000 euros, some information may be presented on the manufacturer website and typically in this case we note that the table represents nearly one third of a page, leaving few space for the other many information required by the PRIIPS.

Question 70. Which criteria should be chosen to update the values in the KID when input data change significantly ?

Our concern would be if the change has a material/significant impact on the investment product risk-reward profile, therefore the triggering event maybe different depending on the nature of the product.

Question 71. As the evolution of underlying asset/s should be taken into account, are there specific issues to be tackled with in relation to specific types of underlying? To what extent should the RTS be prescriptive on the risk premium ?

We do not think that these shall be elements that impose the review of the PRIIPS in the vast majority of situations, these are market risk, the PRIIPS shall be created to inform about the features of the product and is not a continuous information document. In addition, in many if not most cases the manufacturer will publish either regular NAV or equivalent measures or the products will be trade on a platform that will offer bid-ask prices or equivalent measures. The PRIPS is by nature a static descriptive document for which only major changes linked to the design of the instruments shall enter into consideration.

It may be advisable that for fixed term products if the predetermined scenarios become impossible to meet or if the only remaining is the worst case one (or even more dramatic) a review is triggered and this product may then be ready for the product intervention envisaged under the MIFID II. But pragmatically it appears unlikely that a product that fails will be proactively offered, we have to consider that in the vast majority of situation the investors will be able to rely on the support of an adviser (of any legal form) that has no interest in proposing a product that will not satisfy the investor.

Question 72. Are you aware of any other assumptions to be set ?

No

Question 73. Having in mind that most of the applied models in banking are forward looking (e.g. using implied volatility instead of historical volatility) which are the pros and cons of backward looking approach and forward looking approach ?

The one major advantage is that backward looking is certain, if consistent it may help guess future trends, but nobody has a crystal ball, the limits of these approaches stop once the future is considered. Backward-looking approaches may as well be more difficult to use for certain types of products like structured notes. Regarding forward looking scenarios they may indicate trends or expectations but have all likelihood for open products to deliver different outcomes than the ones computed, even if marginally different, this said the industry has developed a long standing experience of building forward-looking models.

Question 74. Do you think that there are other risk free curves that could be considered ?

No

Question 75. Do you think that there are other market data that could be used to determine the credit risk? Do you think that implied credit spreads from other issuer bonds (other than structured products) could be used ?

There are in all likelihood many indicators but the issue is will that information be pertinent under the PRIIPS, which is the benchmark by which relevant information shall be qualified. From a practical point of view these risks are taken implicitly into account in the funding of the product.

Question 76. How would you determine the credit risk in the absence of market data and which are the criteria to identify the comparable ?

Experts guess or estimates, based on models or experiences from market data.

Question 77. How would you include the counterparty risk in the valuation? Would you include specific models to include counterparty risk in valuation (CVA models)? How would you consider the counterparty risk for pure derivatives ?

We think it is product dependent, notably if the product is traded on a platform or not, we would therefore not take it formally into account, moreover if the product may be transferred which means that the counterparty may change and accordingly its status and the reference will be subject to the law of offer and demand as on any market.

Question 78. In which circumstances do you think parameters cannot be computed/estimated using market data? What would you suggest to deal with this issue ?

Rely on expert judgment or models

Question 79. Would it be meaningful to prescribe specific pricing models for structured products, derivatives and CFDs? If yes which are the pros and cons of parametric and non-parametric models ?

We are unsure if one approach may be superior to another over the long run.

Question 80: What should be the value of x? (in the case of UCITS, x=5, but the extent to which this is appropriate for other types of PRIIPs, notably life-insurance products, is unclear).

The value shall be determined by the manufacturer, from a conceptual point of view in case of insurance like products we would tend to consider that they shall be kept until maturity (or their end of life). Regarding other products either the manufacturer proposes a predetermined holding period from a few days to several years and for fixed term products the expectation is that the product is held until maturity.

Question 81: Should this principle be further explained / detailed? Should the terms "rank pari passu" be adapted to fit the different types of PRIIPs ?

No.

Question 82: What should be the relevant figure for the initial invested amount to be taken into account for the calculation of cost figures? Should a higher initial investment amount be taken into account not to overestimate the impact of fixed costs? How should the situation of products with regular payments be taken into account for that specific purpose? (Would an invested amount of 1 000 euros per period of time be a relevant figure ?)

We consider the approach of % superior to euros as each investor situation will be different and it is probably easier to apply % to once investment than compute or assimilate euro amounts to a different numbers. We note as well that the definition of initial amount shall refer to the invested amount by the investors as discussed earlier, alternatively this could be the denomination of the securities, a notional amount, the price of a unit of investment.

This said we would have a preference to refer to 10.000 euros which may allow in case of in cash disclosure to be more significant and represent an amount that probably better speak to all retail investors large and small.

Question 83: For some life-insurance products, the costs will differ on the age of the customer and other parameters. How to take into account this specific type of PRIIPs for the purpose of aggregating the costs? Should several KIDs for several ages be considered ?

N/a

Question 84: Do you agree with the abovementioned considerations ?

Not fully, the number of periods (years) over which the TCR may be computed may present a different picture, fixed costs by nature will be spread over more years diminishing their relative impact.

Question 85: Which other assumptions would be needed there? In the case of life-insurance products, to what extent should the amortization methodology related to the amortization methodology of the premium calculation? To what extent should the chosen holding period be related to the recommended holding period ?

We are unsure if it would be appropriate to present such detailed information in the PRIIPS document, notably the manufacturer is unable to foresee when additional payment or investments will be made that type of table is thus impractical. Furthermore this information may be already envisaged under distribution regulations and thus has no place in the PRIIPS.

In any case the reference shall, this remain, be for linear and incremental processes of fixed amounts.

Question 86: This definition of the ratio is taken from the CESR guidelines on cost disclosure for UCITS. Is it appropriate also in the case of retail AIFs? Should it be amended? Another approach to calculate these costs is to calculate the ratio of the total of these amortized costs to the invested amount in the fund. However in that case the question remains as to how to aggregate this ratio with the on-going charges ratio. Another possible approach could be to use the ratio between the total amount of costs over the holding period and the average net investment (assumed during the whole period, in order to take into account future additional investments, partial withdrawals, payments (i.e. programmed investments or disinvestments)). Do you think this approach would be appropriate ?

We think that work done for UCITS may be reused.

Question 87: What would be other options to define the TCR ratio in the case of life-insurance products? What about the case of regular payments or regular increasing? Which definition would you favour? How to ensure a level playing field and a common definition with the other types of PRIIPs in this regard? Another possible approach could be to use the ratio between the total amount of costs over the holding period and the average net investment (assumed during the whole period, in order to take into account future additional investments, partial withdrawals, payments (i.e. programmed investments or disinvestments)). Do you think this approach would be appropriate? To what extent do these possible calculation methodologies fit the case of insurance products with regular payments ?

Question 88: What would be other options to define the TCR ratio in the case of structured products? Do you identify other specific issues in relation to the TCR if applied to structured products? Another possible approach could be to use the ratio between the total amount of costs over the holding period and the average net investment (assumed during the whole period, in order to take into account future additional investments, partial withdrawals, payments (i.e. programmed investments or disinvestments)). Do you think this approach would be appropriate? For derivatives, it might be the case that it is necessary to further define the concept of

investment to be used as denominator of the ratio. Possibilities include the use of the actual sums paid and received (i.e. initial margins, variation margins, collateral postings, various payoffs, etc.) or the use of the exposure (i.e. market value of the derivative underlying). Do you think these approaches would be appropriate ?

Answer To 87-88: no comment

Question 89: This definition of the ratio is taken from the CESR guidelines on cost disclosure for UCITS. Is it appropriate also in the case of retail AIFs? Should it be amended? Another possible approach could be to use the ratio between the total amount of costs over the holding period and the average net investment (assumed during the whole period, in order to take into account future additional investments, partial withdrawals, payments (i.e. programmed investments or disinvestments)). Do you think this approach would be appropriate ?

Question 90: These different aforementioned principles are taken from the CESR guidelines on cost disclosure for UCITS. Is it also appropriate in the PRIIPs context ?

Answer 89-90: Where possible we seek an alignment with the tested methods retained for the UCITS KID as they are already in use and have been tested extensively by CESR at the time.

Question 91: To what extent do the principles and methodologies presented for funds in the case of on-going charges apply to life-insurance products ?

Question 92: Do you think this methodology should be further detailed? To what extent do you think this methodology is appropriate and feasible (notably in terms of calibration of the model)? It might indeed be considered that valuation models for Solvency II usually are not likely to be designed for per contract calculations. Life insurers may restrict the calculation of technical provisions in the Solvency II-Balance-Sheet to homogenous risk groups. Furthermore they are allowed to use simplified calculation methods if the error is immaterial at the portfolio level. As profit sharing mechanisms in many countries are applied on the company level and not on a per contract level, projected cash flows from future discretionary benefits will not easily be broken down on a per product or even a per contract basis with the existing Solvency II-Valuation-Models.

Answer 91-92: No opinion

Question 93: Do you identify any specific issue in relation to the implementation of the RIY approach to funds ?

Question 94: In addition to the abovementioned issues and the issues raised in relation to TCR when applied to structured products, do you identify any other specific issue in relation to the implementation of the RIY approach to structured products ?

Answer 93-94: These methods appear pertinent at the start of the product life, but it is less clear how they would perform and thus be valid for the long run.

Question 95: Do you agree with the above-mentioned assessment? Should the calculation basis for returns be the net investment amount (i.e. costs deducted)? Do you identify specific issues in relation to the calculation per se of the cumulative effect of costs ?

Partially, if the invested amount is defined under a standardised scenario namely a theoretic investment of for example 10.000 euros will lead to X after a period of Y year in net performance. Noting that minor fees will be assimilated to reduction in performance but not necessarily individually disclose as explained above in our response. As said for the investor the element that count most is net absolute return, the cost to achieve it is in most case not relevant and in most scenario investors may switch products if not satisfied.

Question 96: Is this the structure of a typical transaction ?

No comment

Question 97: What costs impact the return paid on the products ?

It depends on the nature of the product, market conditions… too many factors may enter into account for this answer which is furthermore dependent on the nature of the underlying investment, namely in equities vs. real estate, vs. commodities… in insurance type of structures, under funds or other.

Question 98: What are the potential difficulties in calculating costs of an SPV investment using a TCR approach ?

Question 99: What are the potential difficulties in calculating costs of an SPV investment using a RIY approach ?

Answer to 98-99: In theory there shall not be material differences with other products unless these are managed out of the EU, which may make access to information more elusive as it will depend on third parties regulatory regime.