

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





## Responding to this paper

The European Supervisory Authorities (ESAs) welcome comments on this consultation paper setting out proposed amendments to Commission Delegated Regulation (EU) 2017/653 of 8 March 2017<sup>1</sup> (hereinafter “PRIIPs Delegated Regulation”).

The consultation package includes:

- The consultation paper
- Template for comments

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

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

When describing alternative approaches the ESAs encourage stakeholders to consider how the approach would achieve the aims of Regulation (EU) No 1286/2014<sup>2</sup> (hereinafter “PRIIPs Regulation”).

## Instructions

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

- Q1** Insert your responses to the questions in the Consultation Paper in the present response form.
- Q2** Please do not remove tags of the type <ESA\_QUESTION\_PKID\_1>. Your response to each question has to be framed by the two tags corresponding to the question.
- Q3** If you do not wish to respond to a given question, please do not delete it but simply leave the text “TYPE YOUR TEXT HERE” between the tags.
- Q4** When you have drafted your response, name your response form according to the following convention: ESA\_PKID\_nameofrespondent\_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESA\_PKID\_ABCD\_RESPONSEFORM.

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

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

- Q5** The consultation paper is available on the websites of the three ESAs and the Joint Committee. Comments on this consultation paper can be sent using the response form, via the [ESMA website](#) under the heading 'Your input - Consultations' by **13 January 2020**.
- Q6** Contributions not provided in the template for comments, or after the deadline will not be processed.

### Publication of responses

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

### Data protection

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

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

## General information about respondent

Name of the company / organisation	Bundesverband deutscher Banken (BdB)
Activity	Banking sector
Are you representing an association?	<input checked="" type="checkbox"/>
Country/Region	Germany

## Introduction

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

<ESA\_COMMENT\_PKID\_1>

TYPE YOUR TEXT HERE

<ESA\_COMMENT\_PKID\_1>

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

<ESA\_QUESTION\_PKID\_1>

Article 14(5)(b) of the PRIIPs Regulation is an obstacle to online distribution. Issuers are supposed to be able to demonstrate that they have given an online customer the choice between the information on the website and information provided on paper. This will frustrate end-to-end online business if customers (subsequently) opt to receive information provided on paper. Against the backdrop of the various digitalisation offensives at national and international level and the politically desired promotion of digitalisation, this condition makes little sense. It also makes costly technical and organisational measures necessary and is alien to the concept of online business. The option of receiving information in paper form should be dropped.

Article 14(2)(a) of the PRIIPs Regulation requires the KID is to be made available on paper unless the retail investor requests otherwise. This should also be reversed in favour of making electronic provision the default option. The KID would then in principle have to be made available electronically and would only be paper based on request (see also our reply to question 5). It should also be clarified that the requirements in the PRIIPs Regulation providing for a KID in electronic form are specific requirements which take precedence over the requirements of Article 46(3) of Delegated Regulation (EU) 2017/565.

<ESA\_QUESTION\_PKID\_1>

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

<ESA\_QUESTION\_PKID\_2>

No. Since the content of KIDs is not suitable for IT-based extraction the market has developed other formats which manufacturers use to make information available to distributors for further processing. In the German market, for example, this is done by a central service provider.

It might make good sense for manufacturers to make metadata on KIDs available via a direct interface on their website, for example, for possible validation of data obtained from a service provider. The associated expense would be out of all proportion to the likely benefit, however. For this reason, the idea should not be pursued further.

<ESA\_QUESTION\_PKID\_2>

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

<ESA\_QUESTION\_PKID\_3>

KIDs prepared in accordance with the current legal requirements contain various problematic content which investors find more confusing than helpful. KIDs therefore rightly come in for massive criticism – not least from consumer groups. For this reason, it is essential that improvements are carefully planned. Amendments should also, if necessary, be made at level 1. Effective and sustainable solutions should therefore precedence over a “quick fix”. And regardless of how quickly amendments are adopted, the addressees of the new rules must be given sufficient time to implement them. A concrete reply to this question can consequently only be provided when the scale of the necessary adjustments becomes clear.

<ESA\_QUESTION\_PKID\_3>

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

<ESA\_QUESTION\_PKID\_4>

We are opposed to a gradual introduction of new requirements. Given the technical and organisational implementation that will be needed, an overall solution to the many problems of the PRIIPs Regulation should be found. A step-by-step amendment of individual aspects would require ongoing technical and organisational changes and investment in terms of time and money which would greatly exceed that of a one-off overall adjustment. In addition, gradual partial adjustment could give rise to new problems in other or yet-to-be-adjusted areas. Such an approach could also cause uncertainty among distributors as repeated, and possibly contradictory, information tends not to make matters clearer. It is also important to allow sufficient lead time to implement adjustments. The implementation period after the publication of the revised Delegated Regulation should on no account be shorter than one year.

<ESA\_QUESTION\_PKID\_4>

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

<ESA\_QUESTION\_PKID\_5>

We believe the consultation paper fails to discuss a number of pressing issues with the PRIIPs Regulation. These include the following:

**1. The review should not be limited to level 2**

We support the European Supervisory Authorities (ESAs) in their efforts to thoroughly analyse the problems that have arisen and to develop optimal solutions. If it emerges that an existing problem cannot be solved without changes at level 1, then the relevant level 1 requirements should also be addressed. Investors who continued to receive unfathomable KIDs would find it very difficult to understand that the reason was an error in another piece of legislation that there was no will to change. This applies all the more given that the PRIIPs Regulation in no way limits the review to level 2 requirements. On the contrary, it specifically says that the review should also cover the scope of the regulation. It is a political decision to limit the review to level 2.

**a) Open questions concerning the scope should be clarified**

The scope of the PRIIPs Regulation is not sufficiently clear, leading to doubts as to whether some products are PRIIPs or not. These include, for example, simple bonds with make-whole clauses. It is true that on 24 October 2019 the ESAs issued a Joint ESA Supervisory Statement – application of scope of the PRIIPs Regulation to bonds (JC-2019-64) in order to reduce the legal uncertainty. But the review should be used to clarify the matter at legislative level.

**b) Adjustments with respect to funds**

The extension of the PRIIPs Regulation to funds makes it absolutely essential to tackle level 1 requirements. The regulation is obviously not tailored to funds, as is clear, for instance, from the requirement for savings plans under Article 13(4), which does not fit a retail product like a fund savings plan (see also our reply to question 45).

**c) Put paper-based and electronic provision of information on an equal footing**

The PRIIPs Regulation gives priority to paper-based KIDs. In view of the increasing digitalisation and the sustainability goals pursued by the EU, this encouragement to overconsume resources is incomprehensible. Here, too, level 1 lawmakers should take action and place the electronic provision of documents on an equal footing with paper-based provision (see also our reply to question 1).

**d) KIDs should not be limited to a maximum of three pages**

The consultation paper proposes several measures that would expand the content of the KID. These can only be implemented if the requirement restricting the KID to a maximum of three pages is dropped (see also our reply to question 27).

## **2. Level 2 requirements for OTC derivatives need to be adjusted**

The consultation paper does not address OTC derivatives even though the ESAs themselves have established in their Q&As that the existing requirements do not fit these instruments and that KIDs based on the statutory requirements can cause misunderstandings among customers. For this reason, the ESAs have used the Q&As to make adjustments to the specified text components. These modifications at the very least should be included in level 2 texts and the need for further adjustments should be examined. For example, calculations of performance and costs on the basis of an investment amount of €10,000 is of little practical relevance if nominal amounts of €500,000 or more are usually agreed in practice.

## **3. Language regime**

In the interests of customers, it should be possible to draw up a KID in English instead of in the local language of the member state.

## **4. Historical costs**

According to point 83 of Annex VI of the Delegated Regulation, information about the ratios applicable during previous years and periods should be published in accordance with point 77 at the location specified in the KID as the general source of further information for investors who require it.

One of the purposes of publishing ratios for past years/periods in accordance with point 83 of Annex VI is to make it possible to verify calculations based on ex-post figures. This can be inferred from points 81 and 82 of Annex VI. Under point 81, ratios generally have to be calculated at least once a year on an ex-post basis. Point 82 then goes on to say that ex-post figures may be based on recent cost calculations which the PRIIP manufacturer has reasonable grounds for considering suitable for this purpose. The figures may generally be based on the costs set out in the PRIIP's latest annual or half-yearly financial statements. For most structured securities figures are recalculated on a frequent basis, i.e. at relatively short intervals, often even daily. If changes need to be made, KIDs are revised and republished. When calculating the costs for these products, it is the daily costs that are used as a basis so there is no need to publish historical cost ratios in order to satisfy the spirit and purpose of the requirement.

This requirement is also superfluous since the investor can request previous versions of the KID under Article 14(5), sentence 2 of the PRIIPs Regulation.

## **5. Competent authority (Article 8(3)(a) of the PRIIPs Regulation)**

Article 8(3)(a) of the PRIIPs Regulation requires the KID to include information about the competent authority of the PRIIP manufacturer at the top of the document. The PRIIPs Regulation does not define "competent authority", however. As a general rule, the competent authority should be the competent authority of the member state where the PRIIP manufacturer is established (irrespective of whether the PRIIP manufacturer carries out activities across borders). This is the view of the Commission in recital 22 of its Guidelines on the application of the PRIIPs Regulation.

Some competent authorities in host member states have nevertheless challenged KIDs prepared by manufacturers established in other member states and asked the manufacturers to amend the KID. It should be clarified that competent authorities in host member states may not require changes to the KIDs of PRIIPs whose manufacturer is established in another member state.

## **6. "Make available" (Article 5(1) of the PRIIPs Regulation)**

The term "is made available" (or "make available") is not defined or further explained in the PRIIPs Regulation. In fact recitals 1 and 2 of the PRIIPs Regulation do not use the term "made available" at all but refer to products "offered" to investors. This wording implies that an active element is required.

It should be clarified that PRIIPs are “made available” to potential investors only in situations where the distributor has engaged in some kind of activity which causes the potential investor to make an investment in the product in question. Not only in situations where the distributor serves solely as a transaction platform for its customers, such products are not being “made available” by the distributor to customers of its platform.

**7. 10,000 euros or equivalent in another currency (points 90/91 of Annex VI of the Delegated Regulation)**

For PRIIPs denominated in non-euro currencies, an “amount of a similar magnitude” to 10,000 euros which is cleanly divisible by 1,000 is to be used for the calculation of performance scenarios and cost presentation. In our view, however, it is unclear whether the 10,000 euros must be converted into the foreign currency at the relevant exchange rate for foreign currency products. We would recommend that reference amounts should be fixed for individual currencies so that PRIIPs denominated in the same currency can be compared as far as possible.  
<ESA\_QUESTION\_PKID\_5>

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

<ESA\_QUESTION\_PKID\_6>  
TYPE YOUR TEXT HERE  
<ESA\_QUESTION\_PKID\_6>

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

<ESA\_QUESTION\_PKID\_7>  
Intermediate scenarios frequently produce confusing results. On top of that, there is the problem of information overload, which is also repeatedly raised by the ESAs. For these reasons, intermediate scenarios should be dropped.  
<ESA\_QUESTION\_PKID\_7>

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

<ESA\_QUESTION\_PKID\_8>  
We see no need to include a stress scenario and believe it should be dropped. This will also help to mitigate the oft bemoaned problem of information overload.

Should the ESAs nevertheless decide to retain stress scenarios, a uniform calculation method should at least be specified, i.e. the same drift should be applied to all scenarios.  
<ESA\_QUESTION\_PKID\_8>

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

<ESA\_QUESTION\_PKID\_9>  
TYPE YOUR TEXT HERE  
<ESA\_QUESTION\_PKID\_9>

**10. : The revised methodology specifies that the risk premium is determined by future expected yields. The methodology further specifies that future expected yields should be determined by**



**the composition of the PRIIP decomposed by asset class, country and sector or rating. Do you agree with this approach? If not, what approach would you favour?**

<ESA\_QUESTION\_PKID\_10>  
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<ESA\_QUESTION\_PKID\_10>

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

<ESA\_QUESTION\_PKID\_11>  
TYPE YOUR TEXT HERE  
<ESA\_QUESTION\_PKID\_11>

**12. : How should share buyback rates be estimated?**

<ESA\_QUESTION\_PKID\_12>  
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<ESA\_QUESTION\_PKID\_12>

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

<ESA\_QUESTION\_PKID\_13>  
TYPE YOUR TEXT HERE  
<ESA\_QUESTION\_PKID\_13>

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

<ESA\_QUESTION\_PKID\_14>  
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<ESA\_QUESTION\_PKID\_14>

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

<ESA\_QUESTION\_PKID\_15>

As the ESAs rightly acknowledge, the proposed probability-based approaches are unlikely to produce plausible results for all products despite the corrective measures that have been taken. But instead of abandoning an approach that has been identified as flawed, compensatory mechanisms are proposed. We are opposed to the idea for several reasons:

- These mechanisms will result – as the ESAs rightly realise – in the objective of comparability not being achieved.
- The mechanisms will only mitigate or conceal the problems associated with the probability-based approach. The problems will not be solved.

- The compensatory mechanisms eliminate upward and downward outliers. But this may make the figures seem more plausible to investors, making it even more likely that they might draw inaccurate conclusions.
- It would fly in the face of a “probabilistic” approach to start by calculating probability-based figures using a complex methodology, only to subsequently not disclose these figures but modify them.
- For manufacturers, it would be hugely burdensome to first calculate the probability-based figures – normally with the help of external experts – only to then correct these expensively purchased figures.

<ESA\_QUESTION\_PKID\_15>

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

<ESA\_QUESTION\_PKID\_16>

TYPE YOUR TEXT HERE

<ESA\_QUESTION\_PKID\_16>

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

<ESA\_QUESTION\_PKID\_17>

TYPE YOUR TEXT HERE

<ESA\_QUESTION\_PKID\_17>

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

<ESA\_QUESTION\_PKID\_18>

TYPE YOUR TEXT HERE

<ESA\_QUESTION\_PKID\_18>

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

<ESA\_QUESTION\_PKID\_19>

TYPE YOUR TEXT HERE

<ESA\_QUESTION\_PKID\_19>

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

<ESA\_QUESTION\_PKID\_20>

TYPE YOUR TEXT HERE

<ESA\_QUESTION\_PKID\_20>

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

<ESA\_QUESTION\_PKID\_21>  
TYPE YOUR TEXT HERE  
<ESA\_QUESTION\_PKID\_21>

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

<ESA\_QUESTION\_PKID\_22>  
TYPE YOUR TEXT HERE  
<ESA\_QUESTION\_PKID\_22>

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

<ESA\_QUESTION\_PKID\_23>  
TYPE YOUR TEXT HERE  
<ESA\_QUESTION\_PKID\_23>

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

<ESA\_QUESTION\_PKID\_24>  
TYPE YOUR TEXT HERE  
<ESA\_QUESTION\_PKID\_24>

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

<ESA\_QUESTION\_PKID\_25>  
TYPE YOUR TEXT HERE  
<ESA\_QUESTION\_PKID\_25>

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

<ESA\_QUESTION\_PKID\_26>  
It may be helpful for investors to know how a product has performed in the past. It must, however, be made clear to them that past performance is not a reliable indicator of future results (Article 44(4)(d) of Delegated Regulation (EU) 2017/565). Information on past performance therefore causes the same problems as future scenarios calculated on the basis of past performance.  
<ESA\_QUESTION\_PKID\_26>

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

<ESA\_QUESTION\_PKID\_27>

Should further performance scenarios or another form of presentation be included in the KID, the maximum length of the KID would have to be increased to four pages. See also our reply to question 26.  
<ESA\_QUESTION\_PKID\_27>

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

<ESA\_QUESTION\_PKID\_28>  
See our reply to question 26.  
<ESA\_QUESTION\_PKID\_28>

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

<ESA\_QUESTION\_PKID\_29>  
See our reply to question 26.  
<ESA\_QUESTION\_PKID\_29>

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

<ESA\_QUESTION\_PKID\_30>  
See our reply to question 26.  
<ESA\_QUESTION\_PKID\_30>

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

<ESA\_QUESTION\_PKID\_31>  
TYPE YOUR TEXT HERE  
<ESA\_QUESTION\_PKID\_31>

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

<ESA\_QUESTION\_PKID\_32>  
See our reply to question 26.  
<ESA\_QUESTION\_PKID\_32>

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

<ESA\_QUESTION\_PKID\_33>  
The intermediate point in time should be dispensed with in order to reduce the scale of information included in the KID. If the KID is to continue to contain information about the effects of costs, they only need

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

to be indicated for two points in time. In addition to the end of the recommended holding period, only the day after the purchase date is of interest in order to show cost peaks (e.g. subscription fees for funds). If the recommended holding period is only one day, as is the case for leveraged products without a term, information on the day after the purchase date is sufficient. Only for PRIIPs with a recommended holding period of more than 10 years and an early redemption option might it be beneficial to show information about costs on an intermediate date.

<ESA\_QUESTION\_PKID\_33>

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

<ESA\_QUESTION\_PKID\_34>

See our reply to question 33.

<ESA\_QUESTION\_PKID\_34>

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

<ESA\_QUESTION\_PKID\_35>

If the KID continues to include information about costs, the accumulated costs figure should be dropped, especially since this is only based on a fictitious investment amount and does not include the distributor's costs.

<ESA\_QUESTION\_PKID\_35>

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

<ESA\_QUESTION\_PKID\_36>

For MiFID products with ex-ante information about costs, the presentation of costs should be dropped from the KID.

Should a presentation of costs still be required in the KID in such cases, the greatest possible consistency should be sought. The key issue is not so much that the (percentage) amounts should be shown in both documents but that the costs should be calculated in exactly the same way. This means no return should be assumed under the PRIIPs Regulation.

<ESA\_QUESTION\_PKID\_36>

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

<ESA\_QUESTION\_PKID\_37>

TYPE YOUR TEXT HERE

<ESA\_QUESTION\_PKID\_37>

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

<ESA\_QUESTION\_PKID\_38>

TYPE YOUR TEXT HERE

<ESA\_QUESTION\_PKID\_38>

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

<ESA\_QUESTION\_PKID\_39>

As we see it, the proposed option will not succeed in aligning information about costs under MiFID and the PRIIPs Regulation as PRIIPs costs will continue to be calculated on the assumption of a return (see also our reply to question 36). This cannot be integrated into MiFID cost information as this is calculated by distributors, which do not know the performance values of the manufacturers.

Until this fundamental problem is solved, the review cannot be successful. None of the solutions proposed will improve the situation. Ex-ante cost information about financial instruments gives investors a more comprehensive and thus better idea of the impact of costs.

<ESA\_QUESTION\_PKID\_39>

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

<ESA\_QUESTION\_PKID\_40>

We believe costs should be calculated without assuming a (fictitious) return (see also our reply to question 36).

<ESA\_QUESTION\_PKID\_40>

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

<ESA\_QUESTION\_PKID\_41>

We basically recommend reducing the amount of information about costs in the KID and are concerned that the inclusion of additional information will not enhance transparency for the investor and thus create no added value.

<ESA\_QUESTION\_PKID\_41>

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

<ESA\_QUESTION\_PKID\_42>

If the information about costs and the performance scenarios are retained, the KID should explain that the specified costs are calculated on the basis of the middle performance scenario.

<ESA\_QUESTION\_PKID\_42>

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

<ESA\_QUESTION\_PKID\_43>

More complexity in the calculation will not necessarily make the result better or more plausible. Random analyses of MiFID II transaction costs show that these have sometimes differed wildly from ex-ante and ex-post amounts reported by management companies. If this information about costs is retained, transaction costs must be consistent with ex-ante data or their revised amounts.

<ESA\_QUESTION\_PKID\_43>

**44. : If UCITS would fall in the scope of the PRIIPs Regulation, do you agree that the coexistence of the UCITS KII (provided to professional investors under the UCITS Directive) and the PRIIPs KID (provided to retail investors under the PRIIPs Regulation) would be a negative outcome in terms**

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

<ESA\_QUESTION\_PKID\_44>

When formulating the PRIIPs Regulation, lawmakers made the sound decision that only retail investors need a KID. This is in line with the assumption in Article 56(1), subparagraph 2 of the MiFID Delegated Regulation (EU) 2017/565 that professionals have sufficient knowledge and experience. This assumption also shows that professional clients do not suffer from a lack of information and therefore do not need product information.

This must also apply to UCITS, meaning that the KID should be the sole information sheet and should be provided only to retail investors.

<ESA\_QUESTION\_PKID\_44>

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

<ESA\_QUESTION\_PKID\_45>

Lawmakers established very sensible rules governing the provision by UCITS of essential investor information for savings plans. These take account of the fact that UCITS savings plans are mass retail business. One big German bank alone administers a total of around 4.5 million savings plans. Electronic communication has been agreed with just under 21 per cent of the account holders.

The rules also take account of the fact that investors only make an investment decision when they initially subscribe to a savings plan. This correct assessment should also be reflected in the PRIIPs Regulation if it is in future to cover UCITS. This applies all the more given that the PRIIPs Regulation also makes clear at several points that the KID should be the basis of the investment decision. Some examples:

- Recital 15: *“Retail investors should be provided with the information necessary for them to make an informed investment decision and compare different PRIIPs, ...”*
- Recital 17: *“The key information document should be drawn up in a standardised format which allows retail investors to compare different PRIIPs, ...”*
- The legislative intent is also clear from the level 2 Delegated Regulation (EU) 2017/653, which in Article 17 sets out requirements concerning when the KID should be made available. And recital 24 says: *“The key information document should be made available to retail investors sufficiently prior to their investment decision, so that they are able to understand and take into account the relevant PRIIP information when making that decision.”*

With savings plans, the customer makes an investment decision only when the contract is concluded and not when individual savings amounts are paid. Once the contract has been concluded, customers have the product (PRIIP) in their account and can see how the product is developing (performance) and what costs are incurred (annual cost reporting). In the event of changes in the market, they can also see how the product reacts to risk factors.

There is therefore no need to provide revised KIDs, especially since the default option is provision in paper form.



If lawmakers nevertheless consider it necessary to provide KIDs over the term of the savings plan, it should amend the current requirement of Article 13(4) of the PRIIPs Regulation as follows. It should be sufficient to provide savings plan customers with a KID once a year (e.g. together with their annual securities account statement/MiFID II report or cost reporting). This would enable banks to combine the costly postal delivery of the KID with that of other recurring information.

<ESA\_QUESTION\_PKID\_45>

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

<ESA\_QUESTION\_PKID\_46>

We do not agree. Information about authorisation details under Article 4(12) of the UCITS Regulation cannot simply be extended to other types of PRIIP. Financial instruments issued on the basis of the European Prospectus Regulation and approved by a national competent authority frequently have sales restrictions for individual countries. This is a different approach.

<ESA\_QUESTION\_PKID\_46>

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

<ESA\_QUESTION\_PKID\_47>

Since language issues are already dealt with at level 1 (Articles 7 and 6(4)(c) and recitals 13 and 14), no further requirements are needed.

<ESA\_QUESTION\_PKID\_47>

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

<ESA\_QUESTION\_PKID\_48>

TYPE YOUR TEXT HERE

<ESA\_QUESTION\_PKID\_48>

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

<ESA\_QUESTION\_PKID\_49>

TYPE YOUR TEXT HERE

<ESA\_QUESTION\_PKID\_49>

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

<ESA\_QUESTION\_PKID\_50>

TYPE YOUR TEXT HERE

<ESA\_QUESTION\_PKID\_50>

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

<ESA\_QUESTION\_PKID\_51>

TYPE YOUR TEXT HERE



<ESA\_QUESTION\_PKID\_51>

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

<ESA\_QUESTION\_PKID\_52>  
TYPE YOUR TEXT HERE  
<ESA\_QUESTION\_PKID\_52>

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

<ESA\_QUESTION\_PKID\_53>  
TYPE YOUR TEXT HERE  
<ESA\_QUESTION\_PKID\_53>

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

<ESA\_QUESTION\_PKID\_54>  
TYPE YOUR TEXT HERE  
<ESA\_QUESTION\_PKID\_54>

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

<ESA\_QUESTION\_PKID\_55>  
TYPE YOUR TEXT HERE  
<ESA\_QUESTION\_PKID\_55>

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

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

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

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