



European Securities and
Markets Authority

Reply form for the Consultation Paper on PRIIPs Key Information Documents



10 November 2015

Responding to this paper

The European Securities and Markets Authority (ESMA) invites responses to the specific questions listed in the ESMA Consultation Paper on PRIIPs Key Information Documents, published on the ESMA website.

Instructions

Please note that, in order to facilitate the analysis of the large number of responses expected, you are requested to use this file to send your response to ESMA so as to allow us to process it properly. Therefore, ESMA will only be able to consider responses which follow the instructions described below:

- use this form and send your responses in Word format (pdf documents will not be considered except for annexes);
- do not remove the tags of type <ESMA_QUESTION_PRIIPS_1> - i.e. the response to one question has to be framed by the 2 tags corresponding to the question; and
- if you do not have a response to a question, do not delete it and leave the text “TYPE YOUR TEXT HERE” between the tags.

Responses are most helpful:

- if they respond to the question stated;
- contain a clear rationale, including on any related costs and benefits; and
- describe any alternatives that ESMA should consider

Naming protocol

In order to facilitate the handling of stakeholders responses please save your document using the following format:

ESMA_ PRIIPS _NAMEOFCOMPANY_NAMEOFDOCUMENT.

E.g. if the respondent were XXXX, the name of the reply form would be:

ESMA_ PRIIPS _XXXX_REPLYFORM or

ESMA_ PRIIPS _XXXX_ANNEX1

To help you navigate this document more easily, bookmarks are available in “Navigation Pane” for Word 2010 and in “Document Map” for Word 2007.

Deadline

Responses must reach us by **29 January 2016**.

All contributions should be submitted online at www.esma.europa.eu under the heading ‘Your input/Consultations’.



Publication of responses

All contributions received will be published following the end of the consultation period, unless otherwise requested. **Please clearly indicate by ticking the appropriate checkbox in the website submission form if you do not wish your contribution to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure.** Note also that a confidential response may be requested from us in accordance with ESMA's rules on access to documents. We may consult you if we receive such a request. Any decision we make is reviewable by ESMA's Board of Appeal and the European Ombudsman.

Data protection

Information on data protection can be found at www.esma.europa.eu under the headings 'Legal notice' and 'Data protection'.



Introduction

Please make your introductory comments below, if any:

<ESMA_COMMENT_PRIIPS_1>

The Association of the Luxembourg Fund Industry (ALFI) is the representative body of the Luxembourg investment fund community. Created in 1988, the Association today represents over 1300 Luxembourg domiciled investment funds, asset management companies and a wide range of service providers such as custodian banks, fund administrators, transfer agents, distributors, legal firms, consultants, tax experts, auditors and accountants, specialist IT providers and communication companies. The Luxembourg Fund Industry is the largest fund domicile in Europe and a worldwide leader in cross-border distribution of funds. Luxembourg-domiciled investment structures are distributed on a global basis in more than 70 countries with a particular focus on Europe, Asia, Latin America and the Middle East.

We thank the ESAs for the opportunity to participate in this consultation on draft Regulatory Technical Standards (RTS) on PRIIPs (hereafter referred to as “the Consultation Paper”).

We support the submission of the European Fund and Asset Management Association (EFAMA) to which we as a member have contributed.

<ESMA_COMMENT_PRIIPS_1>

Comprehension alert

Question 1

Would you see merit in the ESAs clarifying further the criteria set out in Recital 18 mentioned above by way of guidelines?

<ESMA_QUESTION_PRIIPS_1>

We would see merit in the ESAs clarifying further the criteria set out in Recital 18 of the PRIIPs Regulation by way of guidelines before the deadline for the Commission review. Divergence in national practice, leading to a lack of comparability, should be avoided. First reflections presented by the ESAs in their Discussion Paper (JC/DP/2014/02, p. 74-76) should be taken as a starting point. In particular, we welcome reference to article 50 of the UCITS Directive as a basis for what could or could not be included in the comprehension alert.

<ESMA_QUESTION_PRIIPS_1>

Standardised amounts used as a basis for calculations

Question 2

- (i) Would you agree with the assumptions used for the proposed default amounts? Are you of the opinion that these prescribed amounts should be amended? If yes, how and why?*
- (ii) Would you favour an approach in which the prescribed standardised amount is the default option, unless the PRIIP has a known required investment amount and price which can be used instead?*

<ESMA_QUESTION_PRIIPS_2>

We agree with the assumptions used for the proposed default amount for investment funds of EUR 1'000. It should in our view not be amended.

The prescribed standardised amount should be used, unless the PRIIP has a known required higher investment amount and price which can be used instead.

<ESMA_QUESTION_PRIIPS_2>

Risk and reward

Question 3

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

<ESMA_QUESTION_PRIIPS_3>

We believe that the Cornish Fisher expansion is an appropriate methodology to be applied for category II.

Assuming the bootstrapping approach would not require a look through all the assets within a fund, this methodology could be a possible alternative to be selected, in particular because it would then be aligned to category III.

<ESMA_QUESTION_PRIIPS_3>

Question 4

Would you favour a different confidence interval to compute the VaR? If so, please explain which confidence interval you would use and state your reasons why.

<ESMA_QUESTION_PRIIPS_4>

We would propose to increase the confidence level to 99% in order to achieve alignment across risk measurement requirements applicable to the funds industry (such as Value at Risk calculation requirements for UCITS funds).

<ESMA_QUESTION_PRIIPS_4>

Question 5

Are you of the view that the existence of a compensation or guarantee scheme should be taken into account in the credit risk assessment of a PRIIP? And if you agree, how would you propose to do so?

<ESMA_QUESTION_PRIIPS_5>

We welcome the ESAs' statement on page 40 (para. 54 of Annex II to section 3) confirming that, in principle, credit risk shall not be assessed on AIFs or UCITS. This is in line with our view that off-balance products like investment funds do not provide any or only little credit risk. We believe the cases outlined by the ESAs in relation to para. 55 of Annex II to section 3 (on page 40, completed by explanatory text on page 76), in which credit risk is still meant to be considered for funds, should be discarded, because all potential credit risk arising within a fund's portfolio impacts the fund's NAV fund and thus is already covered by its market risk. As a result, we think that for all calculations of the SRI, a fund's credit risk should always be considered as being 1. Generally, the absence of a guarantee scheme should not make funds be disregarded in comparison to other products. Funds, whose investments are insolvency remote, should instead be able to highlight the role of the depositary in the section "What happens if [the name of the PRIIP's manufacturer] is unable to pay?". All assets which the depositary holds in custody must be subject to adequate segregation. The depositary's safekeeping duties are detailed by EU and national law.

Additionally, due to the variable and uncertain nature of the guarantee amount, this aspect may not be easily quantifiable into a unique synthetic indicator.

<ESMA_QUESTION_PRIIPS_5>

Question 6

Would you favour PRIIP manufacturers having the option to voluntarily increase the disclosed SRI? In which circumstances? Would such an approach entail unintended consequences?

<ESMA_QUESTION_PRIIPS_6>

We believe that an increase of the SRI should be allowed in some circumstances, in particular:

a) Increase the SRI by 1 bucket in case the calculated SRI is oscillating between two risk buckets.

b) Set the SRI by default at 7 in case the manufacturer considers the product to be of high risk in any circumstances.

<ESMA_QUESTION_PRIIPS_6>

Question 7

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

<ESMA_QUESTION_PRIIPS_7>

As already mentioned in our answer to question 5, we welcome the ESAs' statement on page 40 (para. 54 of Annex II to section 3) confirming that, in principle, credit risk shall not be assessed on AIFs or UCITS. This is in line with our view that off-balance products like investment funds do not provide any or only little credit risk.

For other PRIIPs where credit risk is relevant, a credit risk adjustment depending on the tenor could be considered. This would reflect the fact that the credit risk to which a PRIIP holder is exposed to increases with the maturity / holding period of the product. One could suggest a maturity (or recommended holding period) dependent mapping scale for credit risk as for example the one suggested below:

credit quality steps	Credit Risk Class		
	<1 year	>= 1 - <5 years	>= 5 years
0	0	0	0
1	0	1	2
2	1	2	3
3	2	3	4
4	3	4	5
5	4	5	6
6	5	6	6

<ESMA_QUESTION_PRIIPS_7>

Question 8

Do you agree with the scales of the classes MRM, CRM and SRI? If not, please specify your alternative proposal and include your reasoning.

<ESMA_QUESTION_PRIIPS_8>

As to MRM: We would propose to keep the current mapping table between volatility and the MRM classes.

As to CRM: We believe the definition of the scale of the risk indicator should remain consistent with the existing UCITS approach, which, as a result of consumer testing, uses a scale of 1 to 7

SRI: We think it would be reasonable to simplify and clarify the matrix by putting SRI = max(MRM ; CRM); this would correspond to the way of how the SRI is computed.

<ESMA_QUESTION_PRIIPS_8>

Question 9

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

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

<ESMA_QUESTION_PRIIPS_9>

In general, we believe that the MRM should not reflect the inflation risk as referred to in this question. Irrespective of the tenor, one should always set the MRM to class 1 for those capital protected products.

<ESMA_QUESTION_PRIIPS_9>

Question 10

Are you aware of other circumstances in which the credit risk assessment should be assumed to be mitigated? If so, please explain why and to what degree it should be assumed to be mitigated?

<ESMA_QUESTION_PRIIPS_10>

As already mentioned in our answer to question 5, we welcome the ESAs' statement on page 40 (para. 54 of Annex II to section 3) confirming that, in principle, credit risk shall not be assessed on AIFs or UCITS. This is in line with our view that off-balance products like investment funds do not provide any or only little credit risk.

In addition, we believe that the circumstances proposed in the RTS for credit risk mitigation purpose (e.g. para. 55 of Annex II to section 3) for guarantee substitution is sufficient to cover all relevant cases where such techniques could be used to decrease credit risk.

<ESMA_QUESTION_PRIIPS_10>

Question 11

Do you think that the look through approach to the assessment of credit risk for a PRIIP packaged into another PRIIP is appropriate?

<ESMA_QUESTION_PRIIPS_11>

As already mentioned in our answer to question 5, we welcome the ESAs' statement on page 40 (para. 54 of Annex II to section 3) confirming that, in principle, credit risk shall not be assessed on AIFs or UCITS. This is in line with our view that off-balance products like investment funds do not provide any or only little credit risk. Indeed, the credit risk from the fund's underlying assets is reflected in the fund's NAV and thus already taken into account in its market risk indicator. We therefore believe that a look through approach is inappropriate in such circumstances as otherwise credit risk would be counted twice.

For other PRIIPs this consideration could make sense as a default of the underlying PRIIPs manufacturer may affect the solvency and the creditworthiness of the master PRIIPs.

<ESMA_QUESTION_PRIIPS_11>

Question 12

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

<ESMA_QUESTION_PRIIPS_12>

Currency risk (or e.g. tax aspects) has to be dealt with by the distributor of a PRIIP, and therefore manufacturers should not be obliged to disclose a risk warning as requested by para. 77 of Annex II to section 3 (page 46 of the Consultation Paper). We think for funds the SRI should be calculated based on the currency of the respective share class.

<ESMA_QUESTION_PRIIPS_12>

Question 13

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

<ESMA_QUESTION_PRIIPS_13>

The SRI should clearly indicate that it is computed on the assumption that the investor keeps it until maturity, and therefore that it does not cover risk associated with early redemptions by investors or secondary market transactions. A warning should be required for capital guaranteed PRIIPs, stating that the value of the PRIIP could be significantly lower than the guaranteed value during the life of the PRIIP due to market and liquidity risk and fluctuations of market prices.

<ESMA_QUESTION_PRIIPS_13>

Question 14

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

<ESMA_QUESTION_PRIIPS_14>

Given that the calculation of the fee will be based on the fund / share class relative out-performance of a benchmark, and will typically be coupled with 'high water' marks or other methodologies, we do not see how an actual monetary or percentage figure can be reasonably predicted.

The presentation of performance fee based on past performance as used in the UCITS KIID is the most sensible way of trying to provide meaningful data to an investor.

Otherwise, we would agree that the performance fee as prescribed in the cost section can be used as a basis for the calculations in the performance section, and that the same benchmark return should be used for calculating performance fees for the favourable scenario.

We think the same benchmark return should be used for calculating performance fees for the unfavourable and favourable scenarios. The unfavourable scenario (and maybe the moderate scenario, depending on the performance fee structure) may naturally lead to no performance fees, but the approach / methodology should remain consistent for the three scenarios.

As a general comment we consider that additional guidelines should be given by the ESAs regarding the moderate scenario which needs to be defined in greater details. A list of indicative benchmarks and their performance scenarios should be provided by the ESAs to give adequate guidelines to the various actors. This would allow comparability between products having similar holding periods.

<ESMA_QUESTION_PRIIPS_14>

Question 15

Given the number of tables displayed in the KID and the to a degree mixed consumer testing results on whether presentation of performance scenarios as a table or a graph would be most effective, do you think a presentation of the performance scenarios in the form of a graph should be preferred, or both a table and a graph?

<ESMA_QUESTION_PRIIPS_15>

Generally, we think a presentation of the performance scenarios in the form of a graph should be preferred. Moreover, percentage figures as opposed to absolute ones or monetary amounts would be in line with the existing UCITS standard.

<ESMA_QUESTION_PRIIPS_15>

Costs

Question 16

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

<ESMA_QUESTION_PRIIPS_16>

As regards the costs section in general, we have the impression that more disclosure requirements are imposed on investment funds than on other PRIIPs. We think it is of high importance to ensure a level playing field and comparability among all types of PRIIPs.

For the asset classes listed in the table on page 62 of the Consultation Paper, we believe standard industry definitions are needed which correspond to the categories offered to practitioners by data providers such as Bloomberg. UCITS eligible assets were defined by law, and it would be good to have also for PRIIPs at least a core of the most important asset classes. We are wondering whether any research has already been done in attempting to apply the listed (sub) asset classes to the portfolios of a range of existing funds to determine whether assets can be classified into the asset classes proposed. Difficulties could be avoided or at least limited if the proposed asset classes were exercised against existing portfolios.

We are unsure whether the asset class “liquidity” also includes deposits. Moreover, the term “high yield corporate bonds (worldwide)” should rather be replaced by the term “non-investment grade corporate bonds”.

<ESMA_QUESTION_PRIIPS_16>

Question 17

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

<ESMA_QUESTION_PRIIPS_17>

Regarding the values of the figures included in this table, we believe the ESAs should take account of the values calculated for transaction costs in the context of swing pricing. Reference is made to ALFI's guidelines and survey on swing pricing (available at www.alfi.lu).

A standardised normally traded lot size is in our view also required as a smaller fund dealing at smaller than normal market lot sizes is likely to incur charges that may be significantly higher than those proposed.

In line with our answer to question 16, we think it would be good to back test the proposed values against actual transaction costs in existing fund portfolios to validate the levels proposed.

We invite the ESAs to clarify whether it would be allowed to use values known from other funds and knowledge obtained as a proxy for the charges during the first two years of a newly created fund rather than use the values proposed in the table.

Considering that transaction costs typically lower after a few years as a fund grows in size/AUM, the values in the table as opposed to actual figures should only be used for the shortest time possible (e.g. one year).

<ESMA_QUESTION_PRIIPS_17>

Question 18

Do you agree that the monetary values indicated in the first table are a sum of costs over the respective holding periods? Or should the values reflect annualized amounts? If you prefer annualized amounts, which method for annualisation should be used (e.g. arithmetic average or methods that consider discounting effects)?

<ESMA_QUESTION_PRIIPS_18>

One should bear in mind that costs are used to generate investment return. It would be misleading for the investor if a link to some projected investment returns was not made.

As a result, there should be a clear indication that some of the costs (e.g. portfolio transaction costs) are already included in the investment return, i.e. the NAV / price, and are not additional costs that will be charged. Moreover, it should be indicated that the disclosed entry and exit fees represent maximum amounts, as is done on the UCITS KIID, with a statement that the investor may pay less.

We agree that the values should reflect annualised amounts. Otherwise the amount disclosed would appear to suggest that higher costs are incurred the longer a fund is held while in reality as the entry and exit charges are amortised over longer periods the annual cost decreases. The lack of annualised amounts may have a dissuasive effect on the investor.

We believe the arithmetic average method would probably be easier to understand for a retail investor.

<ESMA_QUESTION_PRIIPS_18>

Question 19

Do you think that estimating the fair value of biometric risk premiums as stated in paragraph 55(b) of Annex VI would raise any technical or practical difficulties?

<ESMA_QUESTION_PRIIPS_19>

Estimating the fair value of biometric risk premiums will raise some technical difficulties, especially linked to underlying asset projection (stochastic modelling, profit-sharing, etc.) and it raises practical difficulties because it means establishing a KID per retail investor. Indeed, biometric risk premiums depend on the age of the policyholder and on the death coverage.

<ESMA_QUESTION_PRIIPS_19>

Question 20

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

<ESMA_QUESTION_PRIIPS_20>

We consider it would be useful to include the description of the coverage in a separate line in the first table, potentially below the RIY because it is important to present the benefit close to the associated cost. Not the fair value which would be not useful but the potential benefit in case of the event insured occurs.

<ESMA_QUESTION_PRIIPS_20>

Question 21

Given evidence as to the difficulties consumers may have using percentage figures, would you prefer an alternative presentation of the second table, solely using monetary values instead? As with the first table, please also explain what difficulties you think might arise from calculating monetary values, and whether this should be on an annualized basis, and if so, how?

<ESMA_QUESTION_PRIIPS_21>

The use of percentage figures would be in line with the UCITS KIID and in our view generally be preferable, because actual or monetary figures could be taken literally by the investor (who might expect fixed costs and complain in case the indicated amount was different). In particular, recurring costs expressed in monetary values could be misleading for the investor. [We are not aware of any concerns raised by investors into UCITS as a result of using percentage figures in the KIID.]

If actual figures were used the values should reflect annualised amounts. Otherwise the amount disclosed might have a dissuasive effect on the investor who may wrongly think he would have to pay from year to year higher costs.

<ESMA_QUESTION_PRIIPS_21>

Question 22

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

<ESMA_QUESTION_PRIIPS_22>

The advantage of a table is that it provides opportunity to give brief explanations, for example on different time periods (as shown on page 73 of the Consultation Paper). Moreover, the table format is generally in line with the UCITS standard.

It would be helpful for the industry if the ESAs could provide further detail as to how the template shown on page 32 and 33 of the Consultation Paper might work in a practical example.

<ESMA_QUESTION_PRIIPS_22>

Question 23

The example presented above includes a possible way of showing the variability of performance fees, by showing the level for all three performance scenarios in the KID, highlighting the 'moderate' scenario, which would be used for the calculation of the total costs. Do you believe that this additional information should be included in the KID?

<ESMA_QUESTION_PRIIPS_23>

It is not clear to us how the unfavourable, moderate and favourable scenario would be defined. Generally, we believe the scenarios should be based on past performance to reflect a retroactive view of the fund's performance under similar circumstances. In reality investors tend to optimistically assume they will achieve on the most favourable scenario.

Performance fees are linked to the outperformance of a benchmark and will often include 'high water' marks that have to be exceeded before a performance fee is payable. They are not paid on outright performance, which makes it difficult to provide a projection as to whether the fees will finally apply or not in future years and at what level. We consider that the UCITS approach of showing the basis on which the performance fee is to be calculated together with the actual fee paid in a defined number of past years gives the clearest explanation to investors. There would be a need for more detailed guidelines and definitions if a forward projection of possible fees is to be included.

<ESMA_QUESTION_PRIIPS_23>

Question 24

To reduce the volume of information, should the first and the second table of Annex VII be combined in one table? Should this be supplemented with a breakdown of costs as suggested in the graphic above?

<ESMA_QUESTION_PRIIPS_24>

We are not in favour of combining both tables, as the second table rather provides clarity on the information included in the first table. If all this information must be disclosed, two different tables as suggested on page 73 of the Consultation Paper would be preferable.

Although investors apparently find it more difficult to understand percentage figures, we are concerned about the use of monetary amounts in the first cost table as investors might focus too much on absolute figures which are based on a fictitious amount.

<ESMA_QUESTION_PRIIPS_24>

Question 25

In relation to paragraph 68 a) of Annex VI: Shall the RTS specify that for structured products calculations for the cost free scenario have always to be based on an adjustment of the payments by the investor?

<ESMA_QUESTION_PRIIPS_25>

Yes, the RTS could specify that for structured products calculations for the cost free scenario have always to be based on an adjustment of the payments by the investor, as structured products investors have often no possibility to make additional investments after the initial subscription.

<ESMA_QUESTION_PRIIPS_25>

Question 26

Regarding the first table of the cost section presented in Annex VII, would you favour a detailed presentation of the different types of costs, as suggested in the Annex, including a split between one-off, recurring and incidental costs? Alternatively, would you favour a shorter presentation of costs showing only the total costs and the RIY?

<ESMA_QUESTION_PRIIPS_26>

If all this information must be disclosed, we believe there is a need to show a detailed presentation of the different types of costs because certain costs are indicated only as a maximum and some others are not applicable to all PRIIPs. Moreover, some figures are based on predictions whereas other represent actual costs. A breakdown of costs is also in line with the UCITS standard.

<ESMA_QUESTION_PRIIPS_26>

Question 27

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

<ESMA_QUESTION_PRIIPS_27>

Generally, we prefer the table as suggested on page 73 of the Consultation Paper because it is more in line with the UCITS standard. Regarding recurring and other costs we think the same calculation methodology as for UCITS should be used.

<ESMA_QUESTION_PRIIPS_27>

Impact assessment**Question 28**

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

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

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

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

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

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

<ESMA_QUESTION_PRIIPS_28>

From discussions with practitioners we have received an impression that clarification in many respects is still needed. According to art. 6 para. 7 of the draft RTS (on page 25 of the Consultation Paper), the ESAs will also legally be required to establish further guidelines. As a result, we believe it will be very difficult for many practitioners to make available PRIIPs KIDs as from January 2017. We believe a further delay in time is necessary.

For ALFI it is important to underline that the exemption granted by article 32 of the PRIIPs Regulation for UCITS management companies etc. should not be undermined by conflicting rules applicable to other practitioners. We think UCITS management companies and others benefitting from the transitional provision should at best have the option to produce on a voluntary basis PRIIPs KIDs instead of UCITS KIIDs already before they may be required to do so.

Therefore, the unsatisfying situation presented on page 123 of the Consultation Paper (first bullet point under the section *MOPs Costs*) should be taken into account with high priority by the legislator before the new rules will apply. UCITS management companies etc. should not be required to produce simultaneously a UCITS KIID and a PRIIPs KID at least until 31 December 2019, only because an insurance undertaking offering unit-linked products requests the managers to already prepare PRIIPs KID compliant information for the insurance undertaking. This would also undermine the review by the Commission pursuant to article 33 of the PRIIPs Regulation.

A similar issue may emerge in the following situation: Contrary to other EU Member States, Luxembourg has not introduced national rules requiring management companies managing non-UCITS funds to produce for the latter UCITS KIID-like documents. Therefore, manufacturers of these funds will be required to produce PRIIPs KIDs from the beginning. As a result, these manufacturers should not be required to produce UCITS KIID-like documents only because the non-UCITS funds are distributed to retail investors pursuant to local marketing rules in countries where non-UCITS funds indeed benefit from the exemption provided in article 32 of the PRIIPs Regulation because they have to produce UCITS KIID-like documents.

<ESMA_QUESTION_PRIIPS_28>