



European Securities and
Markets Authority

Reply form for the Consultation Paper on PRIIPs Key Information Documents



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>

We find very valuable to present responses linked to respondents, as it is the only way to understand rationales of the positions. This kind of approach is even more important when presenting consumers' and industry's opinions. We would like to encourage ESAs to provide feedbacks form the current consultation in above mentioned format to ensure maximum transparency.

<ESMA_COMMENT_PRIIPS_1>

Question 1

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

<ESMA_QUESTION_PRIIPS_1>

A product is deemed to be a "not simple one" and "hard to understand" for a typical investor, if:

1. it invests in underlying assets in which retail investors do not commonly invest,
 2. it uses a number of different mechanisms to calculate the final return of the investment,
- and as a result: "creating a greater risk of misunderstanding on the part of the retail investor or if the investment's pay-off takes advantage of retail investor's behavioural biases, such as a teaser rate followed by a much higher floating conditional rate, or an iterative formula.

Recital 18 only generally describes the features of "hard to understand" PRIIP. We think that ESAs should firmly stand on the side of retail investors and take necessary steps to avoid selling products which have features causing misunderstanding of the risk-reward and cost-effectiveness of the products.

In order to do so, ESAs should clarify the criteria using not only descriptive approach, but rather showing the typical features that makes the products "not simple" accompanied by the impact analysis clearly showing, where the misunderstanding might occur and what consequences this misunderstanding might bring to individual investor.

<ESMA_QUESTION_PRIIPS_1>

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>

KID PRIIPS is viewed as an educational and informational document among retail investors. They turn to this document in order to understand the main features of the product. Research shows that the KID is also used as a comparison tool.

If this option would be allowed than the comparative feature of the KID might be limited. Therefore, FSUG thinks that proposed amounts should be always used with no exceptions.

<ESMA_QUESTION_PRIIPS_2>

Question 3

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

<ESMA_QUESTION_PRIIPS_3>

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<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>



Standard confidence interval used in financial sector for calculating VaR is 99,5% or 99%. It would be more efficient to standardize the usage of confidence interval across various EU regulation. Even the manufacturers of the financial products would not need to recalculate the VaR using different confidence intervals for various needs.

<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>

Even if any form of guarantee scheme exists on the national level, retail investor should not be misled by its existence. There is no uniform procedure on compensation nor the same level of coverage. If a guarantee scheme would be calculated under the CRM than a false signal would be given to retail investors and as such might create a moral hazard on both sides of the market.

<ESMA_QUESTION_PRIIPS_5>

Question 6

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

<ESMA_QUESTION_PRIIPS_6>

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<ESMA_QUESTION_PRIIPS_6>

Question 7

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

<ESMA_QUESTION_PRIIPS_7>

We suggest to add a CRM 7 level for CCC rated PRIIPs with a tenor longer than 10 years.

<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>

There is an inconsistency between scope of credit risk class (1-6) and credit risk measure (1-7), that is why we propose to add CR6 with value equal to 7.

<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>

For the products offering a nominal capital protection during their whole life span should not be viewed as a low-risk products and thus automatically allocated to MRM class 1. Nominal capital protection is misleadingly presented as a form of investor protection and a form of marketing tool. The reality behind this is that investors rely on this feature without understanding the real costs and low probability of achieving higher potential returns because in many cases, part of the positive return is used for covering such "protection".

<ESMA_QUESTION_PRIIPS_9>

Question 10

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

<ESMA_QUESTION_PRIIPS_10>

We are not aware of any such circumstances.

<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>

We believe it is appropriate. A multi-layer PRIIPs should adequately ranked (high credit risk).

<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>

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<ESMA_QUESTION_PRIIPS_12>

Question 13

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

<ESMA_QUESTION_PRIIPS_13>

Some examples showing the possibility of loss in case of early surrender or sale of the product should be included. <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>

When a manufacturer creates scenarios for presenting expected returns, the costs can be (under proposed methodology) directly implemented into simulation model. There should be no difficulties on the side of manufacturer to include performance related fees into the simulation model to estimate the impact of performance fees on net returns. Therefore we think that a manufacturer should use the same sample for scenarios as well as for performance fee calculations. This should be the case for every scenario if the performance fee is tied to the product itself. In case, where performance fee is tied to the relevant benchmark, scenarios should show evolvement of product returns net of all fees (including performance fee) and evolvement of the respective benchmark at the same time in one graph.

This way, an investor would be able to assess the development of the returns for the product and benchmark as well. At the same time, he/she would be able to see the impact of fees on returns.

<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>

Presentation of performance scenarios in a graph may be more suitable as long as key numbers are still mentioned and the volatility of expected returns with respect to a relevant benchmark is present and visible on the graph.

The key is to see the differences and be able to compare PRIIPs. Taking this into account, we doubt that using scenarios selected by manufacturers would allow full comparison of PRIIPs if at least a common benchmark is used.

<ESMA_QUESTION_PRIIPS_15>

Question 16

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

<ESMA_QUESTION_PRIIPS_16>
TYPE YOUR TEXT HERE
<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>

It is hard to comment on this figures presented in the Table, as these costs are often invisible for retail investors.

The table has been presented without quoting any research or other publicly available data that could be independently verified.

<ESMA_QUESTION_PRIIPS_17>

Question 18

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

<ESMA_QUESTION_PRIIPS_18>

We favour usage of both approaches, meaning that absolute value of costs as well as annualized amounts using arithmetic average.

<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>
TYPE YOUR TEXT HERE
<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 don't think that including biometric risk costs should be included into the costs calculations. The biometric risk coverage should be priced separately as a non-mandatory option. If it is, on the contrary, imbedded in the product, then there should be a narrative included in the « What is this product » section clearly stating that additional costs (premium) for covering biometric risk will be paid by an investor "on top of the other costs".

<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>

KID PRIIPs should have also an educational format. Therefore we prefer to see both approaches, where monetary as well as percentage terms are used.

It could bring positive impact on investors as they will be able to see both figures, understand the relation between them and see the impact on expected return of the investment.

<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>

Presentation in graph is more comprehensive if accompanied by a clear numerical presentation of figures. Therefore, if a graph is used there should be a table below the graph to better understand the impact and evolution of figures.

<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>

Presented "Recurring Costs" under different scenarios might show a false understanding of the situation. If the conditions are unfavourable, than the recurring costs are logically lower (even zero) comparing to the other scenarios.

However, these kind of costs that are tied to the performance should be presented in a form of showing their negative impact on returns. It would be misleading to present them in absolute terms, in this case relative expression with connection the overall performance (scenario) should be used.

<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 think that both tables provide valuable information to investors and recommend to leave both tables.

<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, this would be preferable approach.

<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>

Yes, it is very important to draw investor's attention to the different elements of costs and to their total. At the same time, ESAs have the possibility to use educational aspect of this table to show, what impact would have these costs comparing to 0 costs.

<ESMA_QUESTION_PRIIPS_26>

Question 27

Regarding the second table of the cost section presented in Annex VII, would you favour a presentation of the different types of costs showing RIY figures, as suggested in the Annex, or would you favour a presen-

tation of costs under which each type of costs line would be expressed differently, and not as a RIY figure -expressed as a percentage of the initial invested amount, NAV, etc.?

<ESMA_QUESTION_PRIIPS_27>

The costs could be presented in way showing the impact on initial invested. Presenting information on costs using this approach would allow investors to understand what impact to the initial invested value would the costs have.

<ESMA_QUESTION_PRIIPS_27>

Question 28

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

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

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

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

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

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

<ESMA_QUESTION_PRIIPS_28>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_PRIIPS_28>

