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Re: Joint Consultation Paper – PRIIPs Key Investor Documents Draft regulatory technical standards with regard to presentation, content, review and provision of the key information document, including the methodologies underpinning the risk, reward and costs information in accordance with Regulation (EU) No 1286/2014 of the European Parliament and of the Council

Introduction

General Comments

Irish Funds, as the representative body for the international investment fund industry in Ireland, welcome the opportunity to input and comment on the ESA consultation on the PRIIPs KID. While we provide our answers to the specific questions as requested, the most important point we wish to make generally is to ensure there is clarity and confirmation of the final guidance and 31 December 2016 deadline to produce KIDs soon as possible. We believe that should a scenario arise where the deadline is maintained but the required guidance is not offered until much later than expected, significant time, effort and cost will be have been used unnecessarily by industry companies. In our opinion, the publication date should be linked to the guidance date, otherwise industry will be left with insufficient time to develop and produce the PRIIPs KIDs. Related to this point, if there is to be any delay to the guidance and or publication date, this should be communicated to industry as clearly and as quickly as possible.

Question 1
Would you see merit in the ESAs clarifying further the criteria set out in Recital 18 mentioned above by way of guidelines?

We would see merit in the ESAs clarifying further the criteria set out in Recital 18 of the PRIIPs Regulation in the form of guidelines before the deadline for the Commission review. We believe that the distinction between complex and non-complex products should be the same as the description provided in MiFID II. For anything not included in MiFID II, we would like further clarification to be provided. We believe that divergence in national practice should be avoided as it would cause a lack of comparability. In our opinion, the first reflections presented by the ESAs in their Discussion Paper (JC/DP/2014/02, p. 74-76) should be taken as a starting point. We particularly welcome reference to article 50 of the UCITS Directive as a basis for what could or could not be included in the comprehension alert.

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?

We agree that default amounts should be used for all types of PRIIPs, including those denominated in non-euro currencies so as to aid comparability for retail investors. However, we do not maintain a preference as to whether this default amount should be €1,000 or €10,000, once it is the same default amount for all PRIIPs. However, we believe that it would be useful if the minimum investment level is disclosed as many products have a higher minimum investment level than the default amount and if so it would be useful to show both. Unless the PRIIP has a known required investment amount and price which can be used, we favour the use of the standard default amount for the purposes of the performance scenarios and costs calculation for PRIIPS with a known required investment amount, as again this will ensure comparability between all types of investment products. We believe it is necessary to clearly disclose the prescribed/minimum investment amount in the KID so that investors will understand that only this (minimum) amount can be invested.

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?

We find the categories to be unclear and thus it is difficult to be certain of which category UCITS and AIFs should be attributed to. For this reason, we suggest redrafting Annex II to clarify this point as it greatly impacts the Market Risk Measure (MRM) calculation. We believe discussions among the expert group as regards the formula should continue so as to remove all errors and offer a renewed assessment to investors. This is crucial in order to reach a final evaluation of methodology and comparison between categories particularly Category II and III PRIIPs. However, we do agree with the Cornish Fisher expansion as an appropriate methodology to be applied to all Category II PRIIPs. Moreover, we believe that fund houses with products in both category II and category III should be permitted to use the Cornish Fisher approach for both categories.

Following on from our calculations where we used the revised Cornish Fisher expansion for Category II PRIIPs, we found that UCITS end up in the same 7-scale MRM risk bucket as the

currently used 7-scale SRRI. Since this new risk methodology reaches the same market risk indicator, we are not convinced that there is justification for the cost of implementing a new methodology for UCITS and AIFs which currently use UCITS KIID.

We suggest the introduction of new Class-8 MRM exclusive for PRIIPs where the maximum loss can exceed the money which was initially invested. The reason for this suggestion is as follows; it is important that a PRIIP's MRM is at all times comparable to the risk level of other PRIIPs, which is not the situation at present. We disagree with combining PRIIPs into the same Class-7 MRM, where it is possible that the investor could lose more money than that which they invested (.ie creating extra payment liabilities) as well as high volatility PRIIPs. We believe this would give retail investors the perception that the risk of potentially losing a large proportion of their invested money is as risky as investing into a PRIIP that creates additional payment liabilities beyond the initially invested amount.

We believe that where PRIIPs which invested in illiquid assets (Category V) have sufficient data to calculate their MRM according to Category II, they should be permitted to do so and only refer to Annex II para. 14 where there is not enough data available to them to do the latter. Under the ESAs' proposal most equity funds arrive at an MRM of 6 to 7, whereas PRIIPs which are invested in illiquid assets will be given an MRM of 5.

We strongly disagree with using "bootstrapping" for Category II PRIIPs, as early calculations show that "Cornish Fisher" calculations are comparable. Therefore, we believe there is no benefit as regards cost in doing this especially since the majority of funds will fall into only two numbers of the seven-point scale. Hence, we would prefer the use of the Cornish Fisher expansion for all Category II PRIIPs. Our final observation here is that the proposed methodology does not consider the position of multi-asset, absolute return, life-cycle PRIIPs, etc.

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.

We are in agreement with the ESAs' proposal to adopt a confidence interval of 97.5%.

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?

We are of the opinion that the existence of a compensation or guarantee scheme should not alter the credit risk assessment of an individual PRIIP and its manufacturer.

The KID highlights the potential risks and rewards of a PRIIP to retail investors. We feel it should be made clear to investors that these guarantee/compensation schemes are only to be used as a measure of last resort and not as an additional benefit that lower the PRIIP's credit risk. Reducing the credit risk systematically for a PRIIP that is connected to a national compensation or guarantee scheme, would create additional systemic risks because it would give PRIIPs with a high credit risk the benefit of a compensation scheme and as a result would be seen as being as risky as PRIIPs with a lower credit risk. The inclusion of the fact of such a scheme in the credit assessment of a PRIIP may have the effect of misleading investors into believing that investing a larger amount is equally protected.

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?

We believe that an increase of the SRI should be allowed in certain circumstances, such as, but not limited to, (a) increasing the SRI by one bucket in case the calculated SRI is oscillating between two risk buckets and (b) setting the SRI by default at 7 incase the manufacturer considers the product to be of high risk in any circumstances.

We think that where there is only a move of one risk bucket during the period, a twelve month period for revision of the SRI may be appropriate. However, in circumstances where the product moves more than one bucket, we think it should be necessary to then restate the SRI.

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?

We are in agreement with an adjustment of the credit risk for the tenor, as the calculation for market risk is also reflecting the higher risk for longer holding periods for long term investments. It would give a false impression to retail investors that the credit risk of an obligor is the same, no matter what the holding period for the PRIIP is, if the tenor is not reflected in the credit risk it would give the false impression to retail investors that the credit risk of an obligor is the same, no matter the actual holding period of a PRIIP. We think the credit risk scale should coincide with the 7-scale Market Risk Measure by containing seven risk classes also, in order to facilitate less biased aggregation towards MRM as currently proposed.

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.

We strongly disagree with the aggregation of market risk and credit risk into a single risk indicator. We do not see any value or benefit in this for retail investors but rather believe this could have the effect of misleading or confusing investors.

As mentioned earlier, we are sceptical towards the aggregation of PRIIPs that may lose the investor more than the money invested (i.e. creating additional payment liabilities) and other types of PRIIPs with high volatility into the same Class-7 MRM. Hence, we would like to put forward a suggestion to introduce a new Class-8 MRM exclusively to PRIIPs where the maximum loss can exceed the money initially invested, as discussed above.

As detailed in earlier responses, we have a concern that the current scales do not allow for proper MRM comparability between all types of PRIIPs. Currently, most equity funds will be assigned an MRM of 6 to 7, while PRIIPs invested in illiquid assets will obtain an MRM of 5.

As a general comment, we believe that when combining market and credit risk into the summary risk indicator, credit risk is underrepresented and that these measures should in fact carry equal weightings. For these reasons, we disagree with the proposed alternative to restrict the number of credit risk classes to five, as this would cause more underweighting to credit risk and make for a more uneven playing field between different types of PRIIPs. This in turn would cause more bias against market risk in favour of credit risk in the overall risk aggregation.

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?

We are in agreement with the proposed automatic allocation of a PRIIP to MRM class 1 where there is full (100%) capital protection. We would like more clarity to be provided regarding the definition of "capital protection". We also request that it is made clear that it may not correspond to a legally enforceable commitment.

We strongly disagree with the proposition to extend a PRIIP's automatic assessment to MRM class 1 beyond a five-year tenor. Retail investors should not be under the impression that receiving back the initial investment amount after a long investment period is the same as a risk-less investment. We believe that inflation and general market circumstances are less predictable the longer the term. Hence, while the amount that is lost to inflation (when receiving back the initial investment amount) may not be that relevant in the first five years particularly in the current low-interest rate environment, this effect is exaggerated after a holding period of more than five years. Hence, we are of the opinion that the MRM should not reflect the inflation risk as referred to in this question.

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?

We do not know of any circumstances in which the credit risk assessment should be assumed to be mitigated.

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?

It may be necessary to adopt a look-through approach to the assessment of credit risk where packaging into another PRIIP is used to escape the assessment of credit risk of the effective underlying. Having said that, we do not believe, the look through approach should be applied in general in the case of PRIIPs investing in other PRIIPs or into other underlying instruments as was alluded to in Annex II. We are of the opinion that the credit or counterparty risk involved with such investments should be considered part of the market risk as with other investments in underlying assets and will be captured by the historical volatility data or performance simulations relevant for establishing the MRM category.

The link between this proposal and that for MOPs is important. A large proportion of MOPs are insurance products whose underlying investment options are investment funds. In general, funds do not bear CR whereas insurance products do. Hence, we believe that the generic KID for the MOP should reflect the effect of the CR of the insurer. If this is not carried out, MOPs which are produced by insurers with different credit ratings will appear to carry the same overall risk for consumers.

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?

The KID should describe the overall characteristics of a PRIIP without including aspects of the individual investor, including their national currency. Hence currency risk should be displayed from the PRIIP's perspective rather than the individual investor's perspective. As the distributor of a PRIIP, they must take currency risk into account, hence manufacturers should not be required to disclose currency risk. Should the PRIIP be disclosed from the individual investor's perspective, a different KID will be required for each country in which the PRIIP is marketed. This will likely restrict cross-border distribution in Europe. Hence, we believe a general statement should be adopted to warn the investor of currency risk.

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?

We are of the opinion that this Consultation Paper sufficiently addresses this issue.
We believe that the SRI should clearly state that it is computed on the assumption that the investor keeps the PRIIP until maturity, and as such it does not cover risk associated with early redemptions by investors or secondary market transactions. We think a warning should be required for capital guaranteed PRIIPs, making it clear that the PRIIP's value could be significantly lower than the guaranteed value during the life of the PRIIP as a result of market and liquidity risk and fluctuations of market prices.

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.

We strongly disagree with the fact the PRIIP KID will not permit past performance to be displayed as we believe investors like to be shown the product's history of returns where possible. We suggest that a PRIIPs performance history and possible future performance scenarios be shown in the graphical presentation. We feel this would be positive as they are factual based and past performance can often be a good indication of future performance. We believe showing performance fee based on past performance as used in the UCITS KIID is the most sensible way of providing meaningful information to the investor.

However, in general, we do agree to use the performance fee, as put forward in the cost section, as a basis for the calculations in the performance section. While we think the same benchmark return should be employed for calculating performance fees for both the unfavourable and favourable scenarios. The unfavourable scenario and often the moderate scenario, may naturally lead to no performance fee. However, we would prefer if the methodology is consistent for the three scenarios. Moreover, we believe that it should be made clear that a performance fee only applies when good performance is displayed and so this should be made clear that it only actually applies in the favourable scenario. In the moderate scenario, target performance is achieved rather than going beyond the minimum required standard. Finally, underperformance of the target triggers the unfavourable scenario. However, given that the fee calculation 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 believe it will be difficult to reasonably predict an actual monetary or percentage figure.

As regards the proposed use of the past five years' performance as the benchmark for the moderate scenario, we are of the opinion that, the product provider should be permitted to decide whether the previous performance results, which created the performance fee are presented as a moderate or a favourable scenario depending on the amount of the over-performance and the underlying development of the markets. Otherwise, there may be wrongful assumptions reached about the performances in the moderate and favourable scenarios. We believe past performance of the last five years' cannot be considered as moderate performance in all situations. Furthermore, we are of the opinion that fund providers should be given the discretion to assume different benchmark returns for different scenarios so as to avoid overly optimistic performance presentation where there has been extremely good market performance in the preceding years. Hence, we would like to request that additional guidelines be given as regards the moderate scenario. We suggest that a list of indicative benchmarks and their performance scenarios be given by the ESAs to give adequate guidelines to the various actors in order to allow comparability between products with similar holding periods.

Regardless using an approach that presumes that the benchmark return will remain stable for all scenarios should be limited to events where a benchmark is being used as a determinant for performance fee calculation. Employing this type of assumption suggests that a fund is able to generate performance that is not affected by relevant market developments which is not always the case.

Finally, we disagree with the proposition that information on the interim periods is not required for products that are considered to be illiquid. In our opinion, there should only be a concession for PRIIPs to only provide one performance scenario for the recommended holding period (RHP), where a PRIIPs has no disinvestment possibility before the RHP. We believe this is a significant point as some illiquid PRIIPs do offer disinvestment opportunity before the RHP, but at additional costs and/or losses, which may not be as apparent to the retail investor if not consistently disclosed in the relevant KID sections. Hence for these types of investment, it is crucial to show interim holding periods also.

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?

Firstly, it is not clear to us how the unfavourable, moderate and favourable scenarios would be defined. In reality, investors tend to optimistically assume that they will achieve the most favourable scenario. Hence, we would welcome clarification/guidance on the methodology to determine the favourable, unfavourable and moderate scenarios, as promised in the Consultation Paper.

We would prefer a graphical representation. However, we do have a concern that, as presented, investors may interpret the plotted lines between the varying holding period points as an indication of potential performance over intermediate periods.

We would rather that the performance scenarios be presented in graph form so as to facilitate easier comparability for retail investors. As shown in the consumer testing graphical representation in the form of line graphs, worked just as well as a table with a single holding period. This shows that a graphical presentation aids retail investors to assess different holding periods while keeping the performance scenarios simple yet comprehensive at the same time. It is our considered opinion that graphical presentation would be more intuitive and easier to understand for investors, than if numbers and percentages were disclosed.

Finally, the use of percentage figures instead of absolute or monetary amounts would be in line with the existing UCITS standard. However, we do note that consumers have communicated difficulties with understanding percentage figures.

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?

We categorically disagree with the approach prescribed by the ESAs to calculate potential transaction costs for many reasons.

We believe that more disclosure requirements are imposed on investment funds than on other PRIIPs in the costs section. We think it is crucial to ensure a level playing field and comparability among all types of PRIIPs.

Firstly, we believe that the proposed Transaction Costs does not provide a cost-benefit balance as it is very burdensome to provide future estimates based on the past three years' of historic data, and as such cannot be fully accurate, thus this cost-benefit trade-off is necessary in coming up with a suitable calculation methodology.

This proposed methodology is not the same as any of the options consulted upon in the ESAs' Technical Discussion Paper in the summer. This newly proposed model for calculating transaction costs introduces the concept of an "arrival price". We believe that this model is not suitable to calculate transaction costs.

It seems to us that there are more disclosure requirements imposed on investment funds compared to other PRIIPs. However, we believe there should be a level playing field and comparability among all types of PRIIPs.

An alternative is to use the standardised table for the first three years until there is a trading pattern for fund/product. We believe there should be blanket permission to use table until general review is carried out. Furthermore, in our opinion, the use of the standardised table should be a choice rather than mandatory, i.e. can use the standardised table for the three years or can use real costs. The presentation of performance scenarios should be future-proof

to permit enough flexibility to allow the usage of technology such as websites, to better display varying performance scenarios than is possible in paper form.

The reasons outlined below highlight that a different approach for fixed income and other non-equities is needed.

Costs of equity transactions
Equity transactions fees are already captured by letter (j) in paragraph 6 of Annex VI, which include broker fees, depositary fees, taxes and potential fees charged by specialised custodians, which already represent the total costs of equity transactions.

Inclusion of market impact at odds with MiFID II
MiFID II clearly excludes market impact from its definition of costs. The re-inclusion of this in the new PRIIPs methodology is legally wrong and also allows for incorrect assumptions in calculating transaction costs. Market impact is part of market risk rather than a cost as is suggested here. In the proposed model, transaction costs are equal to the exercise price at closing minus the mid-market price at the time the portfolio manager placed the order. The combining with performance is then so great and the added value is so limited, that its desirability is unclear. Using the proposed methodology, a trade could incur negative transaction costs, if the market price at execution is lower than at the time of the order as the price of an instrument may go down after the order is sent. Hence, this depicts how the costs would largely depend on the trading model used and as a result is likely to impede comparability or predictability of costs for the retail investor.

This model could encourage managers to alter their transactions by trying to time the market, or by dividing orders into smaller parts, or may aim to time the sending of the order instructions nearer to the execution time in order to lower costs to be reported. This is unlikely to be more cost-effective for the investor but may be more costly yet because the proposed calculation methodology creates an illusion that it is more cost-effective.

Costs of non-equity transactions
We do not believe that it is feasible to calculate transaction costs for fixed-income trades on the basis of the proposed method because of the lack of reference data for establishing the relevant arrival prices. The calculation of the arrival price necessarily implies availability of the relevant data on market prices as the arrival price reflects the mid-market price at the time the order to transact is initiated. However, in the fixed-income market, market prices are not yet transparent enough to assume this required data set. Hence, it is crucial that calculations on the basis of such indicative prices are not capable of establishing real transaction costs for fixed-income trades.

The proposed approach to determining the relevant arrival price creates quite significant arbitrage opportunities for calculating transaction costs, thus increasing its susceptibility to errors. It is important that ESAs note that even indicative quotes for some fixed-income products are regularly not updated for several hours, or even days, due to the low level of trading activities in certain fixed-income products.
The required price transparency may not be available to perform this calculation at the time of the application of the PRIIP KID Regulation. As the ESAs' draft RTS require its calculation on the basis of transactions incurred over the previous three years, a full set of historical data would be needed to perform the calculation and this will not be possible until three years after MiFID II/MiFIR is introduced. We believe the decision on this methodology should be delayed by at least a year so as to coincide with the review of the PRIIP KID Regulation which will facilitate the appraisal of the feasibility of the proposed methodology in light of the availability of data for the fixed-income markets following the early experiences with the MiFID II transparency regime. This would aid the regulators in making evidence-based decision rather than formulating new standards in the absence of a market data base. We recommend that

ESAs revive the hybrid approach for the transaction costs calculation in the meantime, as this was the preferred option in the previous round of consultation. Hence, PRIIPs manufacturers should base their spread calculations on the table in para. 25 until this required data is available to market participants. We think changes to the draft RTS should be made accordingly.

We would like to highlight that the above discussion clearly depicts the interconnections between the
PRIIP KID and MiFID II/MiFIR as we are of the opinion that this will cause more complications when the former comes into force on 31 December 2016.

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)

We are of the considered opinion that the cost table as suggested in para. 25 should be part of Level-3 guidelines rather than Level-2 RTS because the market spreads are a reflection of market volatility and do not remain constant for a period of three years. Hence, it is important that this table is maintained and updated on a regular basis by the ESAs to provide a somewhat accurate description of current market spreads. Hence, we do not agree with the proposed three-year interval of reviewing the table as it needs to keep up with ever-changing market circumstances. We feel it is important that the ESAs regularly back test the proposed values against actual transaction costs in existing fund portfolios to validate the levels proposed and make updates when necessary.

We prefer using a standardised cost table to calculate implicit transaction cost, which will facilitate uniform calculation of transaction costs among all PRIIP manufacturers. The reliance on a standardised spread table is important as it will allow smaller PRIIP manufacturers to perform their transaction costs calculation without disproportionate cost, which could put them at a competitive disadvantage.

We suggest the use of a table based on reasonable estimations of relevant transaction costs like the one proposed in para. 25 as a short term solution. This table is even more important in light of the fact that market data, especially for non-equities, will not be available for a number of years and as such PRIIP manufacturers will be forced to use this standardised table as no other data is available.

An alternative is to use the standardised table for the first three years until there is a trading pattern for the fund/product. We believe there should be blanket permission to use this table until the general review is carried out. Furthermore, in our opinion, the use of the standardised table should be a choice rather than mandatory, i.e. can use the standardised table for the three years or can use real costs. The presentation of performance scenarios should be future-proof to permit enough flexibility to allow the usage of technology such as websites, to better display varying performance scenarios than is possible in paper form. Regarding the design of the table, we recommend differentiating between implicit and explicit costs and also including an additional column to accommodate the latter. We would suggest that trading costs in equity instruments and listed derivatives should then be classified as explicit costs. We also suggest distinguishing between program and no program trading as regards emerging market shares and assuming the explicit costs of listed derivative transactions in absolute numbers so as to reflect the prevailing market practice.

We are of the considered opinion that these adaptations would also help to highlight the relevance of the table for existing products as compared to new PRIIIPs: whereas newly launched PRIIPs would be required to apply the entire table in order to compute their transaction costs, and funds with a relevant trading history would rely only on the assumptions for the implicit cost elements. Explicit costs incurred in existing PRIIPs which comprise in particular broker fees, depositary fees, taxes and potential fees charged by specialised custodians in the case of equity transactions would be disclosed on the basis of actual transaction data in accordance with para. 6 (j) of Annex II.

Regarding the asset classes listed, we believe that standard industry definitions are required that correspond to the categories offered to practitioners by data providers such as Bloomberg. UCITS eligible assets were defined by law. It would be useful to have a core set of the most important asset classes for PRIIPs.

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)?

Since costs are used to generate investment return, we believe it would be misleading for investors if a link to projected investment returns was not made.

We believe the approach to cost disclosure over the respective holding periods should correspond to the presentation of performance prospects in the risk and reward section. In our view, this is especially crucial where the cost disclosure in monetary terms is supplemented by a Reduction in Yield figure to depict the impact of costs on performance.

Hence, we recommend further clarifying the Reduction in Yield concept. We believe that the phrase “Reduction in Yield” should be replaced by a description that is easier to understand for retail investors. We also believe the introductory part should clearly explain that the effect of costs is calculated on the basis of the moderate scenario shown in the risk and reward section.

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?

Firstly, we would like further clarification on why the cost of providing life insurance cover should not be fully disclosed. From our understanding, the current calculation of a “fair value” deducts benefits and understates costs. Where a guarantee which is external to a fund, is provided to a client, then that “benefit” is a cost and should have to be fully disclosed and included in the cost calculation.

We recommend formulating Level-3 guidelines on the assumption to be used when calculating the fair value of biometric risk premiums so as to facilitate a common methodology among insurance PRIIPs, and other PRIIP types, because by estimating the fair value of biometric risk premiums certain technical issues will come up, particularly linked to underlying asset projection *and it creates practical difficulties in that it means creating a KID per retail investor*

as biometric risk premiums depend on the age of the policyholder and on the death coverage.. Regardless, we are in agreement with the ESAs that if the insurance undertaking cannot work out the fair value of a biometric risk premium based on sound estimations of future benefit payments, it should have to include the full biometric risk premium in the cost calculations.

Regarding paragraph 55(b), we believe that profit-sharing mechanisms should be employed to reduce costs or increase performance, but not both.

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?

We recommend including the biometric risk premium in the presentation of costs (Annex VII) in the second cost table as "Insurance costs" of a PRIIP.

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?

The use of percentage figures would be in line with the existing UCITS KIID. We believe it would be generally preferable, because actual or monetary figures could be taken literally by the investor. We believe that costs expressed in monetary values could be misleading for the investor and we do not know of any concerns raised by investors into UCITS resulting from using percentage figures in the KIID. We are of the opinion that if actual figures were utilised, the values should depict annualised amounts. If this is not done, the amount disclosed could dissuade the investor who may incorrectly believe that he would have to pay higher costs from year to year.

In any case, we think that these percentages should not be in the form of RIY figures based on the RHP. We believe it would be most useful if the second table showed the actual cost structure, since the first table is depicting the effect of charges, and so facilitating a proper understanding, and even replicating the cost structure in other scenarios. In our opinion, it is likely to be misleading to show a 5% entry cost as 1% in the hope that the investor realises that the table relates to a recommended holding period of 5 years and the 5% has been amortised. These actual percentages are also what will be used by online calculators and required by MiFID II.

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?

Although we prefer the graphical presentation as the KID already contains a number of tables, the crucial information on costs depicted to the retail investors necessitates a summary table and a detailed breakout table. The table has the benefit of facilitating cost affects for various holding periods which is difficult to accomplish in the graphic. The table provides the opportunity to provide brief explanations, for example on different time periods. The table format is also in general in line with the UCITS standard.

We would appreciate if the ESAs would provide further detail regarding how the template shown on page 32 and 33 of the Consultation Paper may work in a practical example.

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?

While this example provides detailed information on performance fees, it does not showcase the variability of other cost elements. This could have the effect of making investors think that since only the performance fee figures are presented as variable in different market conditions, other costs will remain stable in any case. This should be avoided as the recurring cost figure also includes transaction costs which may widely vary depending on the market situation and the portfolio composition at a specific point in time. Hence, we agree with the use of a summary table as well as a detailed breakout table.

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?

We would not agree with combining both tables because the second table offers clarity on the information in the first table. If it is necessary to disclose all of this information, two different tables as suggested on page 73 of the Consultation Paper would be preferable.

While we recognise that investors appear to have some difficulty understanding percentage figures, we have concerns regarding the use of monetary amounts in the first cost table because we feel that there is risk that investors may place too much focus on absolute figures which are based on a fictitious amount.

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?

We believe that 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 investors who are in structured products regularly have no possibility to make additional investments after the initial subscription.

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?

If it is necessary to show all of this information, we believe a detailed presentation of the different types of costs should be shown because certain costs are shown only as a maximum and some others are not applicable to all PRIIPs. Furthermore, certain figures are based on predictions while others represent actual costs. Hence, we are in favour of displaying both a summary table and a more detailed breakdown table. Also, a breakdown of costs would be in line with the UCITS standard.

Although the currently proposed summary table on page 73 is a hybrid between a summary and breakdown table, we recommend a simpler summary table followed by a more detailed breakdown. As regards, recurring and other costs we think the same calculation methodology as for UCITS should be used.

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.?

If it is necessary to show all of this information, we believe a detailed presentation of the different types of costs should be shown because certain costs are shown only as a maximum and some others are not applicable to all PRIIPs. Furthermore, certain figures are based on predictions while others represent actual costs. Hence, we are in favour of displaying both a summary table and a more detailed breakdown table. Also, a breakdown of costs would be in line with the UCITS standard.

Although the currently proposed summary table on page 73 is a hybrid between a summary and breakdown table, we recommend a simpler summary table followed by a more detailed breakdown. As regards, recurring and other costs we think the same calculation methodology as for UCITS should be used.

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.

We believe it is necessary to provide clarification on many aspects. In our opinion, it will be necessary to delay the implementation date as according to Article 6 Paragraph 7 of the draft RTS, the ESAs will also legally be required to establish further guidelines, making it difficult for many product manufacturers to make a PRIIPs KID available from January 2017. It is our considered opinion that a further delay is necessary and in line with recent developments regarding MiFID implementation.

We feel that it is important that the exemption granted by Article 32, for UCITS as well as other nationally regulated retail funds that produce the UCITS KIID should not be undermined by conflicting rules applicable to other PRIIP providers. We believe that these companies which are benefitting from the transitional provision should at least be given the option to produce on a voluntary basis PRIIPs KIDs instead of UCITS KIIDs already before they may be required to do so.

In our opinion, it is important that the legislator takes into account the unsatisfactory situation presented in the first bullet point under the section *MOPs Costs* on page 123 of the Consultation Paper before the new rules are finalised. We believe this could cause confusion for investors with the main features of risk, performance and costs presented differently in the two documents. We are unsure whether EU legislators anticipated this outcome and question whether this is covered by the Level 1 text. Article 6(3) of the PRIIP KID Regulation which stipulates that in the case of MOPs “the key information document shall provide at least a generic description of the underlying investment options and state where and how more detailed pre-contractual information documentation relating to the investment products backing the underlying investment options can be found.” It is our opinion that this does not indicate provision of a PRIIP KID for each underlying investment option. We believe that when combined with Article 32, it should be read as allowing the provision of the UCITS KIID as pre-contractual data on any UCITS or AIF benefitting from the exemption under Article 32. We believe that UCITS management companies etc. should not be obligied to produce a UCITS KIID and a PRIIPs KID simultaneously at least until 31 December 2019, only because an insurance undertaking offering unit-linked product requests the managers to already prepare PRIIPs KID compliant information for the insurance undertaking. We think that this would also have the effect of undermining the review by the Commission pursuant to article 33 of the PRIIPs Regulation.

Hence, we recommend that the ESAs reconsider whether the approach proposed under Article 12(1) of the draft RTS can be justified when accompanied with the wording of Article 6(3) of the PRIIP KID Regulation and the EU legislator’s decision to exempt investment funds providing a UCITS-like KIID from the duty to implement new information standards by the end of 2016.

However, we anticipate that the effect of the Level 2 measures on the fund industry as regards operational efforts and financial resources will then be much greater than the EU legislator anticipates. We believe that it will force many fund management companies to establish

internal projects so that they can provide their insurance sector business partners with PRIIPs-compliant SRI, performance scenarios and cost figures. In principle, these elements should be delivered well in advance of the PRIIP KID Regulation been put in force, in order to allow insurance companies to produce PRIIPs KIDs on unit-linked insurance products on time. Seen as the specific standards for MOPs were unclear before the draft RTS was published in November 2015, the large majority of fund providers have still not assigned specific budgets or established business projects for PRIIP KID implementation. Hence, if this is now required urgently, the costs are likely to be unreasonably high. We believe it is inappropriate to expect fund providers to be ready for the PRIIP KID regulation to go live well in advance of its formal implementation date even though they manage the only type of PRIIPs for which a temporary exemption from scope applies.

Finally, we would like to request further clarification on Recital 20 regarding a periodic review of the KID being required only in circumstances where the PRIIP manufacturer is actively supporting the distribution of a PRIIP on the secondary market. We have knowledge of cases where funds have been sold on the secondary market without the PRIIP manufacturer being notified. Hence, we believe that it should be the distributor's obligation rather than the manufacturers' to ensure that an up-to-date KID exists where an investor wishes to buy a PRIIP on the secondary market.