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IA PRIIPS JCP – final response

Following circular 012-16 please find below The Investment Association's final response to the European Supervisory Authorities' (ESAs) Discussion Paper on the PRIIP KID. Thank you to all members who contributed to this response.

The key issues we identify in the ESAs' proposals concern:

- the methodology for calculating transaction costs
- some of the detail in respect of presentation
- requirements for target markets definitions and the provision of the KID
- the selective use of past performance in some sections but not in others
- the design of the proposed template(s)

Introduction

Please make your introductory comments below, if any:

<ESMA_COMMENT_PRIIPS_1>
The Investment Association (IA) welcomes the opportunity to respond to the joint committee's draft RTS which set out the methodologies and presentation requirements for the new KID. The IA has always been very supportive of the UCITS KIID and supports the extension of the concept through the PRIIPs initiative. In particular, we believe that the high standards of charges disclosure reached in the KID should be maintained. Additional information about costs incurred in the investment process should sit alongside the clear and intuitive terminology and methodology represented in the Ongoing Charges Figure (OCF). In this respect, we welcome the decision by the ESAs to propose a separation of charges and transaction costs in addition to the aggregation that expresses the overall economic experience of monies invested in funds or other relevant financial products.

Transaction costs methodology:
While explicit costs are relatively straightforward to quantify, there is no straightforward equivalent for implicit costs that arise from capital market frictions. We do not agree with the proposed methodology (implementation shortfall) for implicit costs for two key reasons. The first is conceptual, the second practical.

Implementation shortfall is a particular approach focused on measuring quality of trading rather than pure quantification of market costs. As such, benchmarking against the arrival price is also inconsistent with the principle set out in the JCP: "that transaction costs represent the difference between the value of an asset when owned by a PRIIP, and the prices at which the PRIIP transacts in that asset." We agree that this principle represents the fully economic cost of replacing one asset (cash) with another asset (stock) provided that the value of the replacement asset (the stock) is measured at the point in time that the exchange takes place. However, using an arrival price at a point in time significantly in advance of the exchange of assets, and in advance of the market being touched, will also capture market movements that are nothing to do with the intention to trade as costs.

We note that in 2014 the UK FCA commissioned an independent firm, Novarca, to examine transaction cost transparency. Novarca analysed the implementation shortfall approach and identified significant conception and practical challenges. These included many variations of the benchmark (eg. arrival price), and our evidence from our members suggests a wide variety of benchmarks are used.

At a practical level, we are concerned that the proposal will be unworkable given difficulties in sourcing data beyond more liquid markets. For a great many investment managers, and in asset classes other than equities, the proposals will require significant systems build that will be costly, time consuming and potentially limited in accuracy, given the challenge of what has to be measured.

Taking these conceptual and practical issues into account, we recommend that the ESAs provide two options: either use standardised figures, as is proposed for new funds, or use a more empirical calculation. The empirical option should benchmark the execution price against the market price when a trade takes place, not against the arrival price. The ESAs could then review emerging market practices as part of the 2018 review of the PRIIP regulation. Given a tight implementation timetable for PRIIPs, a standard table also has the advantage of being more straightforward to put into operation in the first year of KID production giving more time to build systems to deliver the empirical alternative.

The approach for MOPs:
While being formally exempted by the Level-1 Regulation, fund management companies might be required to provide "PRIIPs-like" information well before the current implementation deadline. This is because, according to current drafting of the RTS, information has to be provided to manufacturers of so-called "multi-option products" (such as unit-linked insurance contracts offered by insurance companies),

creating the perverse effect that fund managers – while being explicitly exempted by the Regulation – will be amongst the first caught by the obligation to provide PRIIPs-compliant data. This clearly oversteps the Level-1 Regulation which simply requires “generic description” of these underlying investment options which can undoubtedly be satisfied by providing a UCITS KIID to investors (for those funds being already required produce a UCITS KIID).
As drafted, the MOP rules would require a very large number of investment funds to produce both a UCITS KIID and the full range of information for a PRIIP KID, at least until 31 December 2019. Moreover, and very importantly, it would result in confusing information for investors, with the core features of risk, performance and costs presented differently in the two documents.

Target Markets and Provision of the KID:
Article 4(4) obliges the introduction of target markets in the KID, also adding to the MiFID II obligation for manufacturers to define and review target markets. However, not all PRIIPs manufacturers are MiFID firms. While we appreciate the attempt to align the two legislative acts in principle, we disagree with adding requirements such as “product oversight and governance processes” to PRIIPs level 2 when this has no basis in the level 1 Regulation. Certainly any requirements included via this consultation and draft regulation for a disclosure document (and not for product or firm regulation) should not go beyond what MiFID II already prescribes.

Chapter V, Article 20 provides information on the conditions of good time. The items to be taken in to account indicate that we should know something about the investor in order to make an informed choice as to whether they have received the KID in good time to make an informed choice. This is difficult to do in practice, further clarification would be very helpful.

Template(s):
The JCP contains several templates covering the whole KID as well as individual sections of it. This is very helpful to understand the intentions of many parts of the draft rules for presentation. However, the draft rules do not specify the extent to which these templates shall be binding. Considering the relatively small amount of detail the 2-page template for the whole KID (which must be 3 pages) has, it is impossible to know what the draft actually prescribes. We would encourage the ESAs to be clearer here. In our view the presentation beyond what is given in the detailed templates (to the extent we agree with them, see below) is sufficient. But this should be attested by the final Regulation.

Past performance:
For the presentation of performance of the investment product the predecessor of the KID (the UCITS KIID) made use of historic data; the only true qualitative source of information available when it comes to performance of investment products. We agree that past performance is no indicator for future performance. However, at the time of the development of the UCITS KIID, independent academic research showed that past volatility was as good a guide to future performance as any other more complicated (and costly) metric. Despite the findings and good experience with the KID the ESAs now do not foresee the use of historic data for the performance scenarios (Article 6 draft RTS) while the draft RTS refer to the use of past performance for other sections of the KID (performance fees, risk calculation). A change of policy that past performance can be used for the performance scenarios would be very helpful. Also because it would ensure consistency with the KIID.

Costs and charges:
For the presentation of costs and charges we agree with using two tables as set out in Annex VII and broadly agree with the level of granularity and explanation of the cost structure. It is vital for a proper understanding of the cost structure that transactions costs are reported separately in order that they are properly identified as being incidental to the provision of the investment management service and not a part of the cost of that service. The cost of that service is fully recognised within the ongoing charges figure, as defined in the UCITS KIID and reproduced in Annex VI, and we recommend that the OCF concept is preserved in the KID.

Also, we are concerned about the absence of a clear link between the costs and the performance sections. The return for investors illustrated by net performance has two components – investment returns

and costs. The KID as a whole focuses on net performance and only the cost component. We think a better balance would be achieved if the amount an investor can expect to get back is shown alongside the impact of costs in the first costs table.

In response to specific questions we identify enhancements that could be made to the core proposal in Annex VI, the key points being: preservation of the widely understood ongoing charges label, use of plain language, a link to net performance and either full summary or full granularity in first table, and use actual rates as percentage of net asset value instead of RIY in the second table. We think these enhancements will allow a better understanding of the cost structure, facilitate the core data required by online calculators and provide the product figures needed for aggregation under MiFID.

<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>
The PRIIPs Regulation lays out rules for key information documents. It is not a product regulation. MiFID (Art. Article 25 of 2014/65/EU) and IDD (Article 30 in its provisional version) however, regulate which financial instruments and insurance based investment products are complex or non- complex products based on the nature of the products being offered or considered. In our view the criteria set out in Recital 18 should be seen in line with the above mentioned regimes to develop a coherent EU regulatory standard. Investors will not be helped, if an assessment following IDD or MiFID would come to a different result than a separate PRIIPs test and they would be confronted with unaligned information.

Therefore, we believe that a comprehension alert should be included in the key information document for complex products in the meaning of MiFID and IDD that are investing in underlying assets in which retail investors do not commonly invest. If the product is complex, clarifications by ESAs on what such assets are, taking into account common market practice throughout retail markets in the EU, would be very helpful for KID manufacturers.

A coherent approach across directives and the PRIPS regulation will lead to the highest possible degree of clarity for investors, distributors and manufacturers of investment products or insurance based investment products.

Finally, the review clause in the level 1 Regulation specifically addresses the comprehension alert. Our suggestion the legislators would be to use that opportunity to review the application of the proposed integrated approach.
<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>
We agree that a standard amount should be used but we recommend that the same standard amount is used for all products in all cases. Our preference is for the prescribed amount to be 1000 euro, 1000 pounds or a broadly equivalent amount in in multiples of ten (100, 1000, 10000, etc.) of the relevant currency units. This is because larger amounts might make the product seem inaccessible to the average retail client. A higher amount also makes it easier to hide the impact of fixed costs that have the most significant impact on smaller investment amounts. We do not understand why 15000 would be used instead of 10000 because it is more difficult to relate it to different amounts.

We do not agree that different arrangements should be allowed for regular premium insurance unless the same arrangements apply to all types of PRIIP. Our preference would be to ignore the regular premiums or contributions because they can be regarded as a series of single premiums or contributions for the purposes of the KID. The primary concern is to provide comparability. This has been satisfactory for the UCITS KIID and we see no reason to introduce this variant now and thereby double the number of KIDs that are required to be produced.

We do not agree with using recommended or minimum contribution amounts where these are different to the standard amount. In order to ensure comparability, it is essential that all products make disclosures

based on the same assumed amount. It is meaningful to investors to be able to compare the return or the cost per 1000 invested when comparing two products even if one has a higher minimum contribution.
<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>
The Investment Association would recommend reviewing Annex II in order to clarify the methodologies and in particular in which category which products fall. For UCITS and AIFs for example it is not clear whether they fall into category II, III or V.

Efforts and costs required for the bootstrapping methodology are unreasonably higher. For category II products the results of either method do not differ however. Therefore we believe that for clarity reasons only the Cornish Fisher approach should be used for all category II products and the bootstrapping approach for category III products.

The overly simple view of product types misses the existence of multi-asset products etc. If the ESAs can't decide what the default treatment of these classes should be by March then they need to build in flexibility for manufacturers and/or deliver confirmation later on in the process e.g. via Level 3 guidelines.
<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>
Fund managers can compute the VaR with both confidence intervals, 97.5% and 99%. In our view the confidence level should be increased to 99%, however, to achieve alignment across existing and tested 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>
The Investment Association agrees with ESAs' view (para. 54 of Annex II to section 3) that, in principle, credit risk shall not be assessed for AIFs or UCITS because unit holders are not exposed to manufacturers' balance sheet. A fund's credit risk should always be CR1. However, the view that credit risk is still meant to be considered for funds (compare para. 55 of Annex II to section 3 on page 40, completed by explanatory text on page 76), is wrong. Any credit risk arising within a fund's portfolio impacts the fund's NAV and therefore covered by its market risk and reflected in the market risk calculations.

Compensation and guarantee schemes are not features of the products but institutions independent of the investment product. The PRIIPs disclosure document in general and risk calculation methodologies in particular take into account characteristics of the product in question. Schemes are last resort safeguards and not always reliable and are by no means a reflection of the risk of the product. For comparability amongst products compensation and guarantee schemes should not be part of the credit risk calculation.

The same is true for credit requirement/protection rules in CRD IV and Solvency II. They both don't fully remove Credit risk an neither does the more recent RRD which sole purpose is to protect financial systems, not investment or investment based insurance products.

The section "What happens if [the name of the PRIIP's manufacturer] is unable to pay?" will reflect the existence of compensation and guarantee mechanism and their monetary limitations adequately. Also in this section, funds, whose investments are insolvency remote, should be able to highlight the role of and protection given by the depositary safekeeping all assets in segregated accounts as regulated on EU and national level.
<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>
In order to maintain comparability between PRIIPs we believe that an increase of the SRI should be allowed in a very limited number of circumstances only. These are: (i) increasing the SRI by one risk step in case the calculated SRI is oscillating between two risk buckets and (ii) setting the SRI by default at 7 if 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>
We be believe that the adjustment of the credit risk over time should be reflected in the measure.
<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>
Generally speaking, it seems that when aggregating market and credit risk into the summary risk indicator, credit risk is underrepresented when compared to market risk. We believe that MRM and CRM should carry equal weightings.

We believe the credit risk scale should also contain seven risk classes to coincide with the 2-scale Market Risk Measure. This should allow aggregation that is less biased towards MRM as currently proposed.

Further, we suggest that if market risk and credit risk are to form the risk indicator, the credit risk score and the market risk score should also be shown to clarify where the actual risks investors face lie.
<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>
The Investment Association is against extending a PRIIP's automatic assessment to MRM class 1 beyond a five-year tenor. It is imperative that retail investors are not left under the impression that receiving back the initial investment amount after a long investment period is the same as a risk-less investment. Developments in terms of inflation and general market circumstances are generally not predictable over the longer term. While the amount lost to inflation (when receiving back the initial investment amount) may not be that relevant in the first five years (at least in the current low-interest rate environment), this effect is exaggerated after a holding period of more than five years.
<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 adjustment of credit risk should not be relevant for investment funds, see our answer to question 5. Nonetheless, a statement is missing that these UCITS/AIFs are therefore automatically categorised as CR1.
<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>
A look-through approach to the assessment of credit risk may be necessary if packaging into another PRIIP is used to escape the assessment of credit risk of the effective underlying.

There is an important link between this proposal and that for MOPs. Many MOPs are insurance products with the underlying investment options being investment funds. Funds do not generally bear CR but insurance products do. The generic KID for the MOP should therefore show the effect of the CR of the insurer, otherwise MOPs produced by insurers with very different credit ratings will appear to carry the same overall risk for consumers.
<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>

The potential 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 should be disclosed.

Nonetheless, the currently proposed narrative for PRIIPs "denominated in a currency other than the legal tender in the Member State where the product is being marketed" will require a separate KID for every country the PRIIP is being marketed into in case it diverges from the retail investor's currency, which will inhibit cross-border distribution in the EU single market. We propose a more generic statement in element c of Annexes III's Appendix 1 that should avoid such duplications, but still sufficiently alert the retail investor to the currency risk.

> *[Where applicable: c] The money you get back is in [**insert currency**]. If your country has another currency, this means that the value of this product to you also depends on the exchange rate between [**currency of product**] and the currency of your country.*

<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>
The SRI should clearly indicate that it is computed on the assumption that the investor keeps the PRIIP 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>
In the UK retail market, performance fees are not widely used. Nonetheless, we would encourage the ESAs to adopt an approach that is consistent with the criteria established in Annex IV, namely that three performance scenarios should be selected based on reasonable and conservative assumptions about future market conditions and price movements. The moderate scenario should reflect normal market circumstances that are neither positive nor negative. Separately, for the cost section of the KID, it is proposed in annex VI to calculate the average annual performance fees experienced over the past five years.

The proposal in annex IV is to assume that future outperformance will match the past outperformance that generated the performance fees. An assumed level of target performance is then established using the assumed future performance for the moderate scenario and deducting the historical outperformance. The same level target performance is then to be used in the favourable and unfavourable scenarios. In effect, it is assumed that past outperformance is a reasonable guide to future outperformance.

Consider an example. Two products have the same objective: to outperform the return on a particular index. Both have the same fee structure with a performance fee of 20% of any outperformance. Product A, launched five years ago, succeeded in outperforming in three of the last five years and generated an average annual performance fee of 1%. Product B, launched ten years ago, outperformed in two of the last five years but did not earn any performance fee due to the influence of its high water mark in the earlier years. Both funds are equally likely to generate better performance than the other in the future.
For their KIDs the manufacturers determine the historical return on the index to be a reasonable and conservative assumption about future outcomes and uses it for the moderate scenario. They establish favourable and unfavourable scenarios to be the index plus or minus 3%.
Product A will show a performance fees of 1.6%/1.0%/0.4% for each of the three scenarios (1% historical performance fee implies 5% outperformance. Therefore future performance fees are 20% of 8%/5%/2%).
Product B will not show any performance fees in any scenarios because it has not earned a performance fee in the last five years due to the effect of its high water mark. Product A will be materially disadvantaged compared to product B for events that happened to product B (it reached performance levels that raised its high water mark) more than five years previously.

The core principle of a performance fee is that it becomes payable only when performance exceeds an agreed target. Therefore a performance fee is associated with better performance. Nevertheless, product A will show higher costs for apparently worse net performance prospects. This is unfair and potentially misleading.

We think a fairer approach could be based on the premise that a performance fee has three basic outcomes: the target exceeded, the target achieved or the target not reached. Where the performance fee is determined by reference to a market index, a fairer approach would be for the moderate scenario to be assumed to deliver on-target performance and only the favourable scenario assumed to generate a performance fee (although an uncommon arrangement, the unfavourable scenario would be enhanced by any clawback of fees for underperformance). Where the performance fee is determined by reference to a hurdle rate (such as is common for absolute return type products), it is likely to be possible to determine reasonable expectations for the future hurdle rate independently of the moderate scenario, and therefore any performance fee can be fairly determined by comparing each scenario to the projected hurdle.

The issues discussed in our response to this question raise a broader point about the relationship between past and future performance. We accept that past performance is not a reliable guide to future performance. However, if that is the case, the intellectual approach taken throughout the PRIIP KID should reflect this and the performance fee methodology is a case in point. Transaction cost disclosure is another. While we accept that transaction costs should be better disclosed and communicated to investors, it appears inconsistent that historic transaction costs are seen as appropriate for forward-looking guidance when the return generated as a result of the transactions that cause those costs is not. This raises a fundamental question about the use of forward –looking performance scenarios alongside historical observations of potentially highly variable costs.
<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?

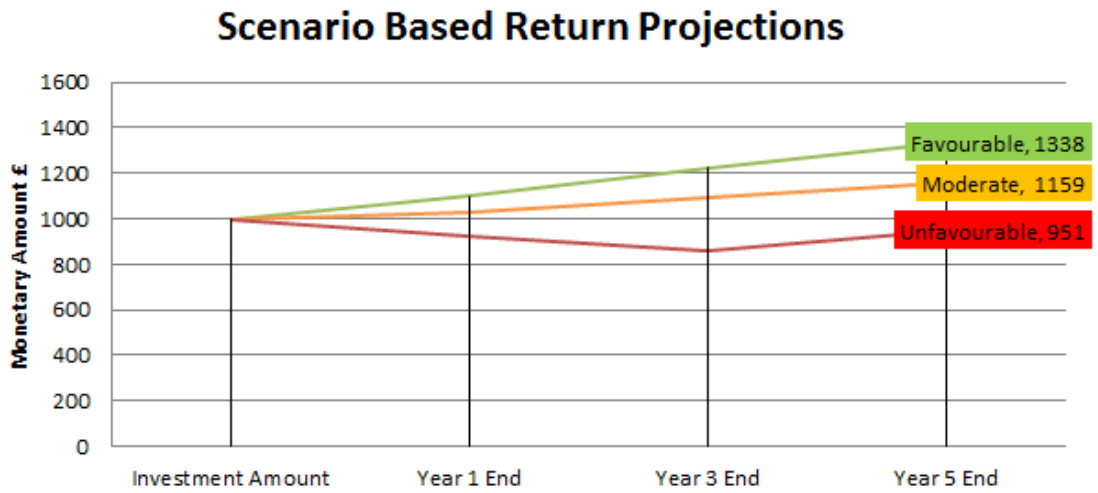
<ESMA_QUESTION_PRIIPS_15>
We think graphs should be used in conjunction with a table – the above tested well (page 113) and gives an appropriate balance between the risk/reward/cost sections (noting that graphics draw consumers attention and encourage them to engage in the detail), as per variant 4.

- Graphs would allow impact of performance fee to be shown.
- It would be easy to plot all 5 years even though years 2 and 4 are not labelled.
- Graphs would then show more detail and in particular show incurred entry costs at the beginning of the investment.

Only the first proposed table on page 55 of the JCP in the Appendix 1 to Annex V contains fields for 18 figures to show performance over the different holding periods in any of the three scenarios. This will not be easily accessible and therefore helpful for investors. Our suggestion is to show the performance over time in graph(s) and have the monetary values in a table to show the average return.

We note that in the alternative proposal of presenting performance as a graph, the initial investment amount and years 1, 3 and 5 are given a numeric display on the actual graph, rather than there being a scale on the graph. We think this makes the graphs cluttered and unclear.

We have developed a different approach which we think displays the information in the clearest way for the investor to understand. It is a one graph and one table approach – please see below. We believe our proposal of having one clear, uncluttered graph which compares all scenarios and then a table below which presents the information in another way for those unable to understand/don't like graphs, is user friendly.



	Investment Amount	Year 1 End	Year 3 End	Year 5 End
Favourable	1000	1100	1225	1338
Moderate	1000	1030	1093	1159
Unfavourable	1000	920	857	951

The recommended holding period for this product is 5 years

In terms of setting the unfavourable, moderate and favourable performance scenarios, we understand the challenge between having flexibility so that appropriate scenarios are set and prescriptive guidance to allow for comparability. We believe more guidance is needed on setting the scenarios however would want

it to still allow enough flexibility so that appropriate scenarios can be drawn up for the many different types of funds and products.
<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>
We think the approach of using a standard table will give results sufficiently close to actual figures so as to be appropriate for all products not just new products. The formula in paragraph 27 is flawed because it weights transaction costs according to portfolio mix which is not representative of the trading experience. A better approach would be to take the half the cost (ie. the mid-bid or the mid-offer spread) for each asset type and weight it according to the traded value in that type of asset.

The table refers to shares in developed markets and quotes rates that appear to be commission rates. We recommend that actual commissions and transfer taxes should always be used and that the table supplies rates only for implicit costs.

The table should additionally include discrimination between different maturities eg 5 year or 30 year and there should be additional asset classes for asset backed securities, mortgage backed securities and index linked securities.
<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>
The table should be included in level 3 guidelines and this would allow the ESAs (or more appropriately ESMA) to carry out a more rigorous survey to establish the most appropriate rates without delaying the implementation of the draft RTS.
<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>
On balance, provided that the percentage figures in the first table are annualised, we agree that the monetary amounts should be the cumulative figure over time. We think it is intuitive that a yearly charge over a longer period is associated with a larger monetary amount. Percentages are more readily associated with annual rates. Also, this is consistent with the approach being proposed for the performance scenarios.

However, we are concerned that using this approach when the 'effect of costs' and the 'amount you might get back' are separated raises a risk of presenting an overly pessimistic picture of costs because in most circumstances costs are paid out of the investment returns. We note that phase I of the consumer testing (page 83) showed that a table presenting value before and after costs (variant 3 in the qualitative testing, page 75) combined with other elements was considered by consumers to be the most appropriate way to present costs. Therefore we recommend that the amounts for the moderate performance scenario should be included in the 'effect of costs' table.
<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>
TYPE YOUR TEXT HERE
<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>
We would prefer to use percentage figures in the second table. The question oversimplifies consumers' difficulties using percentages because, according to the ESA's November 2014 Discussion Paper (page 63), the actual issue is that "consumers can face difficulties effectively understanding the compound impact of costs over time, notably where the costs are expressed in percentage terms." The ESA's have addressed this problem by proposing that the first table presents the compound effect of costs over time as the sum of the monetary amounts over the relevant holding periods.

The first table deals with the issue of the compound effect of costs over time so it would be most useful if the second table showed the actual cost structure, thereby enabling a proper understanding, and even replication of the cost structure in other scenarios. Therefore we would prefer the figures in the second table to be percentages expressed by reference to the net asset value (we explain in our answer to question 27 why these should not be RIY figures).
<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>
We think the two tables shown in Annex VII, with some minor refinements (see our suggested template in our answer to question 24), are appropriate. We do not agree with using a more graphical presentation, such as the example given under question 22. Even though this example tested well. it was not popular with consumers (pages 182/3) because of its size, appearance and over simplified content. It also relies on more free text to explain it; text that consumers have a tendency to overlook. Ultimately it was shown to be less able to facilitate a good understanding of the applicable costs than the more detailed tables shown in Annex VII.

The consumer testing of the UCITS KIID showed that consumers and intermediaries regard the 'risk and return profile' and the 'objectives and investment strategy' sections to be most important to them with the charges section being amongst the less important sections (paragraph 1.9 on page 8 of the UCITS Disclosure Testing Research Report). This appears to be reflected in the order of the sections of the PRIIP KID proscribed by the co-legislators. Therefore, notwithstanding the importance of costs, the design of the KID should not draw consumers' attention more to the costs section than to the risk and reward sections. Comparing the four variants used in phase II (pages 97-99) shows the disproportionate emphasis placed on costs in variant 1, which contains the suggested graphic.
<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>
No. Showing a performance fee for all three performance scenarios should not be included. For many products that are sold continuously to consumers the performance fee is complicated in order to deal with flows in and out of the product. The usually involve features such as a hurdle rate or benchmark, a high water mark or provisions for recovering past underperformance.

The size of the graphic is too big but reducing it would make the performance fee too small.
<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>
No, the two tables should remain and not be combined. The consumer testing (page 184) showed that these two tables used in tandem (variant 4 in phase II, page 169) was the preferred option for presenting costs, due in part to the fact that the different types of cost were clearly explained. This suggests that including these explanations in the table performs better in terms of engaging consumers than free text which was shown in phase I often to be overlooked.

For the reasons given in our answer to question 22, we do not agree with using the suggested graphic. Also, we note that in fine-tuning of the cost variants for phase II (page 86), the suggested graphic was modified so that it resembled a summary table. It is this summary table, coupled with the clear explanations of the different types of costs, which emerged as the preferred option in phase II and forms the basis for second table of the ESA's proposal. With some minor refinements we think the ESA's proposed presentation is appropriate.

We recommend the following refinements which are illustrated below:

1. Preserve the widely understood ongoing charges label;
2. Use plain language;
3. Include a link to net performance in the first table;
4. Fully summarise the first table; and
5. Use actual rates as percentage of net asset value instead of RIY in second table.

In the illustration that follows it is intended that only the rows relevant to a particular product will be shown.

What are the costs?

This section tells you the effect that costs might have on what you get back from your investment and explains the different types of costs. The amounts shown are the costs of this product. Your adviser or the person selling you this product will tell you about any additional costs of distribution not included in these amounts.

Estimate of costs over time **If you invest €1,000**	**Over a year**	**Over 3 years**	**Over 5 years (recommended)**
Total impact of costs over each time period	€ 47	€ 91	**€ 146**
What you might get back after these costs	€ 1,030	€ 1,161	**€ 1,309**
Impact of costs per year	4.4%	2.5%	**2.1%**

The table above shows you the estimated impact of costs on what you might get back from your investment. For further information about what you might get back you should read the performance scenarios section of this document.
The table above is based on the moderate performance scenario and assumes you invest €1,000 and leave it invested for the time periods shown. The costs used are estimated based on data from the past and therefore are likely to be different in the future.

The costs explained		
One-off costs taken before or after your money is invested		
Entry costs	**3.00%**	This is the maximum that might be taken out of your money before it is invested. In some cases you might pay less. This is paid to your adviser or the person selling you this product.
Exit costs		This is the maximum that might be taken out of your money before the proceeds of your investment are paid to you. In some cases you might pay less.
Costs taken from the product over a year		
Ongoing costs	**0.80%**	This is taken by us from your investment each year to cover our costs for managing and operating the product. It also pays for other parties who oversee our activities and keep the investments safe. The figure shown is based on actual costs for the year ending xx/xx/xx.
Insurance costs		This is taken from your investment each year to cover the cost of your insurance cover. The figure shown is based on actual costs for the year ending xx/xx/xx.
Transaction costs	**0.50%**	This is incurred each time the product's underlying investments are bought and sold and is [made up of taxes such as stamp duty and amounts] paid to the firms that operate the financial markets, such as stockbrokers. The figure shown is the yearly average for the last three years. These costs vary depending on the frequency of buying and selling and the nature of the investments involved.
Costs taken from the product under certain specific conditions		
Performance fees	**0.20%**	We charge a performance fee of 20% of any outperformance only when the product outperforms its benchmark, the [name of benchmark]. The figure shown is the yearly average for the last five years. The performance fee varies depending on the performance of both the product and the benchmark and may not arise at all.
Carried interest		Our carried interest in the product is 20% of the profits generated each year. The figure shown is the yearly average for the last five years.
Exit penalty		An exit penalty will apply if you leave early. The figure shown is the maximum which applies if you leave in the first year. The exit penalty does not apply if you hold the product for at least five years.

<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>
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<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>
On balance, we would favour a shorter presentation showing only the total costs and the amount you might get back in the moderate scenario. However, if a more detailed presentation is used we would favour a fully detailed presentation showing the effect of each and every cost item that appears in the second table. Alternatively the summary should focus on costs that are predictable (one-off costs and ongoing costs) and those that are unpredictable (transaction costs and performance fees). We do not agree with the partially summarised first table shown in annex VII.
<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>
For the second table we favour a presentation that does not use RIY. The RIY calculation uses assumptions about the holding period and the amount invested and does not discriminate between items that are reasonably predictable and those that are highly variable, such as transaction costs and performance fees. Therefore, having a second table provides the ideal opportunity to present factual, assumption free data about costs that will help users of the KID to understand the cost structure.

Using RIY in the second table might be misleading. For example, consider an entry charge of 5%. The RIY over a five year recommended holding period would be about 1%. Given the propensity for consumers to believe the numbers in a table and ignore the associated text, a table showing the entry charge as 5% is more likely to be interpreted correctly than a table showing 1%. Even if consumers do work out that 1% represents the effect of a 5% entry charge amortised over the recommended five year holding period, this still fails to portray the immediate significance of 5% being deducted up front on day one.

We note that the PRIIP KID Regulation anticipates the evolution of online cost calculators. Such calculators will be as accurate as the underlying data with which they are populated. The advantage of online calculators over static documentation is that they allow users to establish their own assumptions and to explore how the costs might vary in response to those assumptions. The outcome is therefore a more personalised expression of the potential costs. Presenting factual, assumption free figures in the second table will serve to standardise the parameters needed by online calculators and ensures the data is readily available.

MiFID II requires investment firms to aggregate the costs of their services with the costs reported in the PRIIP KID. Moreover they are required to identify separately any retrocessions received from the PRIIP manufacturer. To do this investment firms will need to properly understand the PRIIP's cost structure such that they can aggregate or separate out items on a like for like basis. For example, an investment firm might receive 3% of the amount invested from a PRIIP manufacturer for advising a client to buy a PRIIP. The PRIIP has an entry charge of 5% shown in the KID. It is straight forward for the investment firm to demonstrate how it earns 3% of from the PRIIP's entry charge leaving 2% to be retained by the PRIIP manufacturer. However, it would be considerably more difficult to show how the 3% retrocession relates to an RIY of 1% over a holding period of 5 years.

The PRIIP KID will co-exist with the UCITS KIID for at least 3 years. Although the respective Regulations define different requirements for each, where there is an opportunity to harmonise the presentation, it is likely to be in consumers interests to receive information on a consistent as possible basis. Therefore, notwithstanding any need to provide additional information about transaction costs, it would be beneficial if the second table showed as many figures as possible on a consistent basis with the UCITS KIID cost disclosures.

Presenting a performance fee in RIY terms might also fail to facilitate an understanding of the performance fee's significance. Understanding a performance fee requires knowledge of the proportion of any outperformance that will be taken as the performance fee. Whether the PRIIP manufacturer will retain 10%, 20% or 30% of outperformance compared to a given target is the key information for understanding the fee structure. Whilst it is not unreasonable to present the average actual performance fee over the last five years (say 1% as was used in the consumer testing) this figure does not provide any information about the relationship between outperformance and its implications for the costs that a consumer might experience.

We understand that some investors might be interested in adding up the figures in the second table in order to arrive at the figure in the first table. Although our approach will not facilitate such addition for the recommended holding period, it will be possible to add the figures to arrive at the total for the one year period in the first table.
<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>

Problem definition

The problem definition highlights that level one determines that the general purpose is to aid consumers in comprehending and comparing PRIIPs; we agree with this. Therefore it is essential that the draft RTS does not stray beyond providing the standardised disclosure mechanisms required to deliver the general purpose into areas of product governance or that would materially alter behaviours by those manufacturing or selling PRIIPs. Examples of where the draft RTS oversteps the mark include:

1. The assertion on page 113 that transaction cost disclosure should incentivise manufacturers to control actual transaction costs. Transaction costs can be meaningfully managed only by trading less so incentivising managers to trade less by applying downward pressure on costs is potentially dangerous and not necessarily in investors' interests (UK Office of Fair Trading market study 2013, paragraph 1.37).
2. According to current drafting of the RTS, information has to be provided to manufacturers of so-called "multi-option products" (such as unit-linked insurance contracts offered by insurance companies), creating the perverse effect that fund managers – while being explicitly exempted by the Regulation – will be amongst the first caught by the obligation to provide PRIIPs-compliant data. This clearly oversteps the Level-1 Regulation which simply requires "generic description" of these underlying investment options which can undoubtedly be satisfied by providing a UCITS KIID to investors (for those funds being already required produce a UCITS KIID).
3. Article 4(4) obliges the introduction of target markets in the KID, also adding to the MiFID II obligation for manufacturers to define and review target markets. However, not all PRIIPs manufacturers are MiFID firms. While we appreciate the attempt to align the two legislative acts in principle, we disagree with adding requirements such as "product oversight and governance processes" to PRIIPs level 2 when this has no basis in the level 1 Regulation.

Policy issues and identified benefits and costs

Policy issue 'Costs 1' considers two options: use a standard table or use a hybrid approach combining actual costs where known with recourse to a standard table only for unknown costs. However, the impact assessment does not address a related and critical policy issue; the choice of the methodology for calculating transaction costs.

The draft RTS proposes an 'implementation shortfall' approach benchmarked against the arrival price. The ESA's have presented no evidence of the benefits of such an approach and no evidence about its suitability, feasibility or cost. The statement on page 113 suggests that respondents to the discussion paper identified a "simple methodology … which enables actual transaction costs to be calculated for most assets" and we assume this is referring to the implementation shortfall approach. However, there is no evidence to support this approach in the summary of responses presented in the JCP or in the impact assessment. This is an important and complex issue that needs to be properly assessed.

The ESAs have correctly identified a principle to underpin the definition of transaction costs that measures the impact, or cost, of exchanging one asset (cash) for another asset (stock) and this is set out on page 80 of the JCP. It states that "The principle of the methodology for calculating transaction costs is that transaction costs represent the difference between the value of an asset when owned by a PRIIP, and the prices at which the PRIIP transacts in that asset." This principle is suitable because it measures the economic difference between carrying out a trade and not carrying it out. However, using an arrival price at a point in time significantly in advance of the exchange of assets, and in advance of the market being touched, will

capture market movements that are nothing to do with the intention to trade as costs. Therefore implementation shortfall approaches are inconsistent with the stated principle.

Implementation shortfall is a particular approach focused on measuring quality of trading rather than pure quantification of market costs. For securities actively traded on an exchange the implementation shortfall approach is used by the larger and more sophisticated investment firms and by third party businesses providing services analysing trading quality. However, the approach is less accessible to smaller firms that may not have specialised teams of dealers. Even for firms that do analyse implementation shortfall there are many different definitions used for the benchmark, and the choice of benchmark varies according to the trade intention. Therefore, very often, the arrival price as defined in the draft RTS will not be routinely collected and stored. In many cases it will be necessary to enhance systems functionality to collect many thousands more data points than are currently gathered. This will be especially problematic for the first KID publication as three years of retrospective data will be needed. The use of opening or closing prices as a proxy for arrival price is arbitrary and will simply build in a different exposure to market movements. It is highly questionable whether the benefits justify these costs.

We note that in 2014 the UK FCA commissioned an independent firm, Novarca, to examine transaction cost transparency. Novarca analysed the implementation shortfall approach and recommended that it should not be used to measure transaction costs. They found there were too many variations of the benchmark (eg. arrival price), and our evidence from our members suggests a wide variety of benchmarks are used.

At a practical level, we are concerned that the proposal will be unworkable given difficulties in sourcing data in OTC markets. A fixed income dealer gave us the following feedback in respect of trading bonds:
"This approach has two fundamental flaws from a non-equity perspective: workflow and transparency.
***Workflow**: frequently non-equity orders are generated and released on the basis that they will only be executed when some other condition is met. Sometimes this is as straightforward as a level order (eg stop-loss or take-profit orders) – which in principle could be coded into the order. However often the decision to execute the order will be driven by the PM's subjective interpretation of market conditions. Therefore there may be multiple factors that an order was activated at 0800 but not traded until 1500. Attempting to track these conditions/decision points would be very cumbersome and in no way additive to the investment process. Furthermore given the evolution of market structure, accessing liquidity has to be increasingly opportunistic: transaction costs can best be managed by trading on liquidity as it appears, rather than paying the premium for 'liquidity on demand'.*
From a more practical perspective, orders tend to be activated prior to being traded to ensure that aspects such as PTC and counterparty restrictions can be resolved in a timely manner before the need to execute. Furthermore FI infrastructure is not orientated around capturing market levels at the point orders are released.

***Transparency**: with the exception of FX and futures markets, there are not continuous prices in many non-equity markets. Conducting a price discovery exercise when orders are released would potentially compromise best execution as one would be signalling to the market that there was an interest in a particular security at some point ahead of the security being traded*."
Another bond dealer said the following:
"[Our] *current method of dealing does not capture the arrival price (when the dealer receives the instruction from the fund manager) – we only have information regarding when we go out for a quote and, being OTC, they are not necessarily firm.*
[Referring to the latest proposals in respect of Dutch Pension Funds] *their preferred option 1 is defined as 'the actual spread at the time of transaction'. The crucial bit here is 'at the time of transaction' i.e. I read this as they are not measuring the time difference between arrival time and execution time, they are just measuring the spread at the time of execution. If we can similarly just measure the spread to mid at the time of transaction (execution) then that's much easier than having to measure against an arrival time. This is because in an OTC market the arrival time will be hard to definitively determine especially in less liquid product such as High yield and most investment grade corporate bonds.*

How do you determine the definitive opening and closing prices in OTC product especially when agencies such as the DMO are pulling out of publishing closing prices in gilts? If we have trouble establishing this in a very liquid market like gilts how much more difficult this will be in less liquid corporate bonds?
On volatile days bond markets can move several percent in a day. If we trade near to the end of a day that the market has moved a great deal our execution price could either look terrible or excellent depending on how the market had moved, either outcome clearly doesn't accurately represent the reality and will give a false indication of either very high trading costs or negative trading costs. I don't think we can safely say the ups and downs will balance out over a time period."

We are also concerned that these new requirements may lead to changes in market trading behaviour (in order to minimise the implicit costs) particularly for retail clients where the price and the costs relating to execution must be the overriding factor in any execution. We suspect that much more liquidity will be pushed to the end of day auction or to providers such as Bats Chi-X which run continuous auctions.
We think a further impact assessment is required in respect of the methodology for calculating transaction costs. Based on the criteria on page 96 of the JCP the implementation shortfall methodology can be assessed as follows:

It does not provide a fair estimate of the actual costs involved because it includes market movements. Depending on how the market moves the costs will be highly volatile and will be either overstated, understated or even negative. It is not sufficient to assume the movements will average out over time because markets often move one directionally for sustained periods so buying in a rising market will constantly overstate costs and vice versa. Moreover this would create market bias between new funds and more mature funds depending on the direction of the market. An approach in line with the principle on page 80 using the mid-market price at the time of trade execution would eliminate market movement and provide a more reliable and stable estimate of the actual costs. Moreover this would not be subject to manipulation in the way that arrival price is.

It is worth noting that transaction costs are not discriminatory. A consumer can compare transaction costs for two similar funds but cannot draw an informative conclusion. One will be higher than the other, but this does not mean one is better or worse. Higher transaction costs are a good thing if they deliver better performance. There is a real risk that consumers will misinterpret higher transaction costs as a bad thing. This is not to argue that they should not be disclosed, but it does mean the benefit of the disclosure is limited.

Policy issue 'Costs 1' considers two options: use a standard table or use a hybrid approach combining actual costs where known with recourse to a standard table only for unknown costs. This reflects two of the three options discussed in the ESA's Technical Discussion Paper. According to page 85 of the JCP the hybrid approach was favoured by the majority of respondents with a lot of support also for the standardised approach. However, neither of these options have been taken forward to the draft RTS.

Taking these conceptual and practical issues into account, we recommend that the ESAs provide two options: either use standardised figures, as is proposed for new funds, or use a more empirical calculation. The empirical option should benchmark the execution price against the market price when a trade takes place, not against the arrival price. The ESAs could then review emerging market practices as part of the 2018 review of the PRIIP regulation. Given a tight implementation timetable for PRIIPs, a standard table also has the advantage of being more straightforward to put into operation in the first year of KID production giving more time to build systems to deliver the empirical alternative.

To do this we would recommend defining transaction costs according to the principle on page 80 as part of the draft RTS, and developing the methodology in annex VI as level 3 guidelines. As you know, we are happy to provide suggested drafting in respect of the methodology.

The approach for MOPs compromises the UCITS exemption. Though the exemption presents issues for reporting under MiFID and for MOPs.

We therefore agree with EFAMA and oppose the ESAs' view that would require multi-option product (MOPs) to provide information on underlying investment options through a PRIIP KID. This clearly oversteps the Level-1 Regulation which simply requires "generic description" of these underlying investment options which can undoubtedly be satisfied by providing a UCITS KIID to investors (for those funds being already required produce a UCITS KIID). It would be hugely complicated if firms had to produce UCITS KIDs for some classes and PRIIPs KID for others, We do appreciate we may need to provide additional cost data and other analytics to insurers but just note in the form of the PRIIPs KID for a UCITS.

The exemption granted by Article 32 of the PRIIP KID Regulation for UCITS and the many other nationally regulated retail funds that produce the UCITS KIID should not be undermined by conflicting rules applicable to other PRIIP providers. The unsatisfactory 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 are finalised. As drafted, the MOP rules would require a very large number of investment funds to produce both a UCITS KIID and information for a PRIIP KID, at least until 31 December 2019. This would also undermine the review by the Commission pursuant to Article 33 of the PRIIP KID Regulation. Moreover, and very importantly, it would result in confusing information for investors, with the core features of risk, performance and costs presented differently in the two documents. We deem it questionable whether such outcome was envisaged by the EU legislators or even is covered by the Level 1 text. Article 6(3) of the PRIIP KID Regulation 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." In our view, this wording does not imply provision of a PRIIP KID for each of the underlying investment option. On the contrary, when combined with Article 32 it should be read as allowing the provision of the UCITS KIID as pre-contractual information on any UCITS or AIF benefitting from the exemption under Article 32.

<ESMA_QUESTION_PRIIPS_28>