



European Securities and  
Markets Authority

# Reply form for the Consultation Paper on PRIIPs Key Information Documents



## Responding to this paper

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

### *Instructions*

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

- use this form and send your responses in Word format (pdf documents will not be considered except for annexes);
- do not remove the tags of type <ESMA\_QUESTION\_PRIIPS\_1> - i.e. the response to one question has to be framed by the 2 tags corresponding to the question; and
- if you do not have a response to a question, do not delete it and leave the text "TYPE YOUR TEXT HERE" between the tags.

Responses are most helpful:

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

### **Naming protocol**

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

ESMA\_ PRIIPS \_NAMEOFCOMPANY\_NAMEOFDOCUMENT.

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

ESMA\_ PRIIPS\_XXXX\_REPLYFORM or

ESMA\_ PRIIPS\_XXXX\_ANNEX1

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

### **Deadline**

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

All contributions should be submitted online at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading 'Your input/Consultations'.



### ***Publication of responses***

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

### ***Data protection***

Information on data protection can be found at [www.esma.europa.eu](http://www.esma.europa.eu) under the headings 'Legal notice' and 'Data protection'.



## Introduction

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

<ESMA\_COMMENT\_PRIIPS\_1>

### Introduction

The Federation of European Securities Exchanges (FESE) represents 36 exchanges in equities, bonds, derivatives and commodities through 19 Full Members from 30 countries, as well as 1 Affiliate Member and 1 Observer Member. FESE is a keen defender of the Internal Market and many of its members have become multi-jurisdictional exchanges, providing market access across multiple investor communities. FESE represents public Regulated Markets. Regulated Markets provide both institutional and retail investors with transparent and neutral price-formation. Securities admitted to trading on our markets have to comply with stringent initial and ongoing disclosure requirements and accounting and auditing standards imposed by EU laws.

At the end of 2014, FESE members had up to 9,051 companies listed on their markets, of which 7% are foreign companies contributing towards the European integration and providing broad and liquid access to Europe's capital markets. Many of our members also organise specialised markets that allow small and medium sized companies across Europe to access the capital markets; 1,442 companies were listed in these specialised markets/segments in equity, increasing choice for investors and issuers. Through their RM and MTF operations, FESE members are keen to support the European Commission's objective of creating a single market in capital markets.

FESE is registered in the European Union Transparency Register with number 71488206456-23.

### Summary of response

FESE welcomes the opportunity to respond to the ESAs joint consultation on 'PRIIPs Key Information Documents'.

***In this response we present our reasoning, why exchanges and exchange traded derivatives are out of scope of the PRIIPs Regulation, and hereby confirm the understanding based on the Level 1 text and the reasoning in this consultation that regulated markets and ETD contracts are not in scope of this Regulation.***

From our assessment of EU legislative texts, explanatory memorandum, impact assessments as well as Commission Communications, we find no explicit reference to the fact that listed derivatives are automatically and necessarily captured within the scope of the PRIIPs Regulation.

An important initial reference can be found in Section 3.4.1 of the Commission Proposal's Explanatory Memorandum which states that:

*"Such investment products expose the investor to fluctuations in the market value of assets or in the payouts to be achieved from assets. But this exposure is not of the direct kind, as for instance when an investor buys specific assets themselves. Instead these products and those that manufacture them intercede between the investor and the markets, through a combination of wrapping of those assets, or other mechanisms that differ from a direct holding ("packaging").*

Listed derivatives such as options and futures do not match this description and therefore do not fulfill the criteria established in the PRIIPs Regulation. They are contracts, the conditions of which are designed by Regulated Markets. In no way does a Regulated Market intercede between the market and the investors, as we are the market. Regulated Markets publish the conditions for their contracts on their website (which lists all of the information on the products and is available for everyone to read) and the traders (be it professional or brokers acting on behalf of their clients) buy and sell these products.

A 'Packaged Retail Investment Product' ('PRIIP') is defined in Article 4(1) of the PRIIPs Regulation (Regulation (EU) No 1286/2014):

*For the purposes of this Regulation, the following definitions apply:*

- (1) *'packaged retail investment product' or 'PRIIP' means an investment, including instruments issued by special purpose vehicles as defined in point (26) of Article 13 of Directive 2009/138/EC or securitisation special purpose entities as defined in point (an) of Article 4(1) of the Directive 2011/61/EU of the European Parliament and of the Council ( 2 ), where, regardless of the legal form of the investment, the amount repayable to the retail investor is subject to fluctuations because of exposure to reference values or to the performance of one or more assets which are not directly purchased by the retail investor;*

As such, it is clearly laid down in the Regulation that when referring to a 'PRIIP', what is meant is an investment including instruments issued by a special purpose vehicle or securitized instruments by special purpose entities.

In addition, the definition of a 'PRIIP manufacturer' (Article 4(4) of the PRIIPs Regulation) refers back to the PRIIP/PRIIP definition:

- (4) *'packaged retail and insurance-based investment product manufacturer' or 'PRIIP manufacturer' means:*
- (a) *any entity that manufactures PRIIPs;*
- (b) *any entity that makes changes to an existing PRIIP including, but not limited to, altering its risk and reward profile or the costs associated with an investment in a PRIIP;*

Clearly, regulated markets/exchanges are not issuers, and are not a special purpose vehicle offering an investment, and are also not securitizing instruments. As a consequence, a regulated market is not captured in this definition in Article 4(1). Stemming from this understanding, it is further concluded that a regulated market is also not a manufacturer, since the definition in Article 4(4) describes a manufacturer as an entity that is manufacturing such PRIIPs/PRIIPs and thus refers back to Article 4(1). Moreover, Recital 12 of the PRIIPs Regulation gives further guidance on the understanding of who actually would qualify as a PRIIP manufacturer, namely, a fund manager, insurance undertaking, credit institution or investment firm.

It is also important to recognise that listed derivatives are financial instruments and not investments. They are designed for risk management purposes and hedging but not 'investment' in the generally understood meaning of the word.

Furthermore, options and futures are not packaged, and do not modify the nature of the exposure of the purchaser to the underlying. In listed derivatives such as Options and Futures, there are no additional layers of complexity, or packaging which would make the investment less transparent. There is no creation or packaging of specifically tailored products that promise or indicate a return on investment. The opposite is the case: options and futures do not promise any return on investment but simply reflect the direction of the underlying and traders can use that (for instance) as a hedge to their equity investments. In this respect we cannot see how this proposal was ever intended to - and could - legally capture these products. Further details are provided in Annex I.

While it is clear in the Level 1 text that listed derivatives, such as options and futures, are not captured in the scope of the PRIIPs Regulation, this understanding is further strengthened by the ESAs in this consultation paper, where further clarification is provided that the PRIIPs Regulation covers investments or instruments that are issued as securitized instruments or have been issued by special purpose vehicles.

In the context of derivatives, the ESAs clarify in Annex II, Part 1, point 9 of the draft RTS (attached to the consultation paper) which instruments are included. It is specified in sub-point c that derivatives that qualify as PRIIPs within part C of Annex I of Directive 2014/65/EU are included. That means that not all derivatives are within the scope of the Regulation; only those derivatives that qualify as PRIIPs are in the scope.



A further argument why exchange traded derivatives available for trading on exchanges/regulated markets are not in scope of PRIIPs, is the concept of the KID as proposed by the ESAs and presented in this consultation. The way the KID is designed and the questions and input parameters formulated clearly indicate that the KID is customized towards the entities that offer investments as a special purpose vehicle, issuer or entity that securitizes instruments.

The KID ultimately cannot be appropriately completed by a neutral regulated market, focused on instruments that do not actually qualify as PRIIPs. In order to support this argument, please find below the proposed draft KID highlighting which sections cannot be in a meaningful way completed by regulated markets for exchange traded derivatives, and why. Further detailed information can also be found in Annex II.

Draft KID (as proposed) from an exchange and ETD perspective

KID FOR A SINGLE STOCK OPTION		
1.	Purpose	Could be provided by a regulated market
2.	Product	Could be provided by a regulated market
3.	What is this product?	
3.A	Type	Could be provided by a regulated market
3.B	Purpose	<p><b>Cannot be provided by a regulated market:</b></p> <p>An exchange traded derivative (ETD) contract, such as an option or future, serves a range of purposes and strategies, all of which cannot be described in the given format of a KID. <b>The specific constellation for which an instrument might be sold by an investment firm to a retail investor cannot be described by the regulated market operating markets in ETDs.</b> In addition, an <b>ETD contract does not satisfy the definition of PRIIPs</b> and second, <b>a regulated market has no contractual agreement with a retail investor.</b></p>
3.C	Intended market	<p><b>Cannot be provided by a regulated market:</b></p> <p>According to MiFID Article 16 and 24(2) it appears the target group is meant here. For ETD contracts, such as options and futures, no intended market/ target group is specifically declared. Clearly, <b>a regulated market does not sell instruments</b>, as much as it also does not buy instruments. No position is assumed as a market operator. MiFID II is very clear that regulated markets cannot engage in any sort of proprietary trading. Moreover, <b>the admission process under the prevailing Exchange Act describes who can be admitted as an exchange participant</b>, retail investors have no contractual agreement with a regulated market. The products are not designed specifically for a target audience. <b>If investment firms decide to market these products to specific audiences, exchanges would not be involved in that process</b> and therefore exchanges cannot include any information on this.</p>
4.	What are the risks and what could I get in return?	
4.A	Risk indicator	<p><b>Cannot be provided by a regulated market:</b></p> <p>The risk indicator as suggested by ESMA focuses on the individual product, purpose and further parameters resulting from the investment advice, such as the 'recommended holding period'. ESMA suggests that derivatives that qualify as PRIIPs are categorized under the highest risk category. We cannot comment on the entirety of the risk indicator for such derivatives that could qualify as PRIIPs and are sold by the defined entities.</p> <p>What we do know as regulated markets though, is that we do not have a full picture and therefore cannot provide an appropriate risk indicator, and in essence, any advice. Regulated markets do not offer advice.</p> <p>Evidently, the regulation indicates that regulated markets operating neutral, multilaterally organized market places in ETD contracts do not satisfy the definition of a PRIIP manufacturer. <b>Therefore, ETD</b></p>

		contracts do not qualify as PRIIPs, and such a classification into the highest risk category would not do justice to the nature of the product or to the trading environment. It obviously was not an intention to include ETDs.
4.B	Performance scenarios	<b>Cannot be provided by a regulated market:</b> The performance scenarios required in the draft regulation are not compatible with the practice of ETD contracts, such as listed options and futures and, if provided, <b>will provide meaningless information</b> . A performance scenario differs <b>per individual trade</b> .
5	What happens if XYZ Asset Management is unable to pay out	<b>Cannot be provided by a regulated market:</b> <b>Exchanges do not pay out: exchanges are not issuing such products</b> and furthermore are not selling ETD products to investors. There is <b>no contractual agreement between retail investors and exchanges</b> .
6	<b>What are the costs</b>	
6.1	Costs over time	<b>Cannot be provided by a regulated market:</b> The costs over time cannot be predicted by exchanges. Fees are made transparent to the market participants, but <b>any additional costs incurred by the investment firms marketing instruments or combination of instruments cannot be included by the regulated market</b> .
6.2	Composition of costs	<b>Cannot be provided by a regulated market:</b> A number of the costs detailed are not produced by or available to exchanges. <b>Exchanges are unable to comply with these requirements as they have no knowledge of or influence over costs in the chain of trading a listed derivative and should not be required to do so from a competition perspective</b> .
7.	How long should I hold it and can I take money out early?	<b>Cannot be provided by a regulated market:</b> <b>Exchanges have no relationship with the retail investor</b> . For that reason, it is not adequate for exchanges to provide this information. ETD contracts are available for trading on every open trading day so positions can be closed against the market price. The objective of the retail investor is unknown and therefore, the question cannot be adequately responded. <b>More importantly, regulated markets do not provide investment advice</b> .
8.	How can I complain	<b>Cannot be provided by a regulated market:</b> In essence <b>an investor has a relationship with his/her broker - the investment firm</b> . Any unsatisfactory investment advice has to be addressed with the advising firm who issued, securitized or otherwise is selling the PRIIP.
9.	Other relevant information	<b>Could be provided by the regulated market:</b> Regulated markets publish all rules and regulations, admission procedures, market models, derivatives contracts specifications, fees, etc. on their website. <b>Cannot be provided by regulated markets:</b> <b>Any information relating to an investment advice</b> . A market operator is neutral by nature and as mandated by the relevant EU legislation (e.g. MiFID II). See points above.



## **ANNEX I: Description of Options & Futures**

### **Options**

An Option is a financial derivative security that represents a contract sold by one party (option writer) to another party (option holder). The contract offers the buyer the right, but not the obligation, to buy (call) or sell (put) a security or other financial asset (including cash) at an agreed-upon price (the strike price) during a certain period of time or on a specific date (exercise date). For listed options, the issuing party is the exchange. For the pricing of these products the Exchange has Liquidity Provider schemes in place. Multiple Liquidity Providers will be making prices in the different Option classes. End users can both buy and short Options according to a strict set of rules (margining, etc). Options are listed within a dedicated segment on the Exchange.

### **Futures**

A Futures contract is a financial derivative security to buy or sell a particular commodity or financial instrument at a pre-determined price in the future. Futures contracts detail the quality and quantity of the underlying asset; they are standardized to facilitate trading on an exchange. Some futures contracts may call for physical delivery of the asset, while others are settled in cash. The issuing party is the exchange. As the futures listed at the Exchange are order driven instruments, for most futures contracts no Liquidity Providers are appointed. End users can both buy and short futures according a strict set of rules (margining, etc). Futures are listed within a dedicated segment on the Exchange.

## ANNEX II: Draft KID – Detailed Analysis

### Item 4: Risks

#### **Risk overview - Practical challenge of providing a fitting risk overview**

From the consultation document it appears that listed derivatives are placed in the highest risk category. That does not do justice to the products and the variety of ways in which they are used.

Too many different types of usage lead to a variety of possible risk profiles. In essence, there are two types of listed options, calls and puts. For both types various exercise prices are listed with various lifetimes. An example: for standard monthly options on Heineken shares, 11 expiry months are listed with a lifetime ranging from 1 month to 5 years. On any day between 140 and 180 calls and between 140 and 180 puts with a different maturity and exercise price are listed.

Depending on whether the exercise price is in-the-money or out-of-the-money and depending on the remaining lifetime, the risk is different; this changes every day when the price of the underlying value changes.

Investors can create a position by buying an option (long position) or selling an option (short position). When an option is bought, the investor can lose no more than the investment. When an option is sold to create a short position, the loss to the investor is not limited unless the investor is hedged; in that case the risk to lose money can be zero.

Creating a long position or a short position in an option has a certain pay-off structure. In addition to single positions, when positions are combined (call/put, long/short) the pay-off structure is adjusted. This allows the investor to create the pay-off structure he wants, and therewith choose the maximum level of risk he wants to create.

The points mentioned above show that a KID with one SRI does not do justice to listed options, especially considering that the purpose of a KID is to give retail investors the opportunity to compare products with each other. If, alternatively, we were to differentiate between all the different calls/puts per strike price, it would lead to an unacceptable amount of KIDs: comparing 180 KIDs for call options and 180 KIDs for put options on one underlying value is unfeasible, especially when taken into account that KIDs will change regularly after a certain underlying price movement. This would result in the exchange having to produce hundreds of KIDS per individual product that need to be updated continuously throughout the day which would be practically impossible to comply with.

The assigned Market Risk Measurement does not reflect the type of product exchange traded derivatives are:

- **One size does not fit all**

From the Consultation it appears that, listed options are qualitatively assigned to Market Risk Measure (MRM) 7. Given the differences in the usage/pay-off structures/many series of options, we feel this misrepresents the product and the use of this product in different strategies and scenarios. From our point of view, the retail investor would not receive the correct information on the option by applying a one size fits all risk category to this product. When a VaR is calculated instead of assigning options to a risk category, the same problem arises: one VaR for all individual series does not reflect the general usage of options and one VaR per individual series will create too many MRMs for a meaningful comparison of KIDs. All of this is subject to change so a KID potentially has a short lifetime and will require many updates.

- **The KID does not correct for trading on regulated markets**

According to the consultation paper standard derivatives are qualitatively assigned to the highest risk category. The KID rules only seem to take into account the structure of the product and ignore the trading environment. We believe that the trading environment has bearing on the risk profile of the

products and should be included in the risk profile. Exchange traded derivatives are traded on a regulated market and are fully transparent; transparent in construction and in trading. Derivatives traded on regulated markets benefit from a highly liquid market which allows for the disposal of the products at any given time. Furthermore, as clearing and settlement is guaranteed, payment and settlement risk are sufficiently addressed. Comparing this to packaged products that can also be traded on non-regulated markets or OTC, we believe that these differences are relevant to the end investor and should be included in the risk assessment. However, the KID does not take this into account; packaged products can have an equal or lower SRI than exchange traded derivatives while the risk of trading against prices that originate from less liquid or less transparent markets is much higher.

- **Safeguards that similar products get the same SRI**

A packaged product can have the same pay-off structure or risk as an option (or combination of options), are there any safeguards to ensure that such packaged products are assigned the same MRM (or even a worse MRM because of higher credit risk) as options/futures? This should be the case in order to safeguard uniformity and a level playing field.

- **VAR calculation**

The exchange is not in the position to execute VaR calculations. All market risk and credit risk calculations are outsourced to the CCP.

### **Performance scenario**

To do justice to the reality of possible performances an unrealistic amount of scenarios would need to be produced. When an investor buys a single listed call or put, he can choose from various strike prices all of which behave differently on underlying price movements. Creating one KID per option series would result in an unmanageable number of KIDs which, in addition, would also need to be updated regularly after underlying price changes. Creating one general KID for all option series would include performance scenarios that are meaningless or even misleading.

### **Item 6: Costs**

The overview of costs is very specific to firms creating, issuing, marketing and managing PRIIPs. The requirements do not match the reality of listed option and future trading. Below a specification per item. We believe that for trading of listed options and futures there are a number of costs that arise which do not necessarily align with the tables presented by the ESAs. The costs are:

- **Trading costs charged by the exchange**

We are able to provide a general overview of the costs per contract. Depending on the number of trades a retail investor conducts, costs can be calculated accordingly.

- **Trading costs charged by the broker (or brokers where applicable)**

This depends on the type of broker and the relationship with the end investor. Exchanges have no access to this information and are not able to specify this as it differs per investor.

- **Clearing and settlement costs**

These costs are charged by the CCP and CSD and should be provided by those entities. As CCPs and different CSD act in our markets (and will offer varying tariffs per market) exchanges cannot provide a comprehensive overview of all those costs. Furthermore, the chain of clearing costs will differ depending on the number of clearing members and brokers that an investor has to go through.

- **Margin requirements**

These requirements are set by the CCP and will depend on the type of clearing account and clearing member. Exchanges have no insight to this.

- **Sales commissions**

Exchanges do not have that information.

- **Structuring costs**

Exchanges do not have that information, market-making costs are at the expense of the individual market maker that chooses to take a position in this contract and exchanges have no prior information on that. Settlement costs depend on the costs of the clearing and settlement organisations and the investor's relationship with his broker. Exchanges are not a party to this.

- **Hedging costs**

N/A as there is a public market, exchanges do not hedge anything.

- **Legal fees**

N/A.

- **Costs for capital guarantee**

N/A. Any capital guarantee would be required by the investment firm and not by exchanges. Additionally, the CCP will ensure these guarantees are taken care of.

- **Implicit premium paid to the issuer**

N/A as there is no issuer.

- **Proportional fees**

Not clear what is meant by this.

- **Bid-mid spread**

Any spread is maintained by individual market makers and brokers in accordance with our market rules. In addition to this, listed derivatives are traded via a public market where anyone can send buy or sell orders to the market. The result is that the spread is often reduced due to resting orders in the order book.

- **Recurring costs**

N/A

- **Implicit costs**

Implicit costs embedded in the PRIIP are not applicable to listed derivatives. Firstly, the issue price is relevant; it must be noted that a listed option or future does not have an issue price as the contract is not issued. Contract terms are designed and contracts are only created when they are traded by the two counterparties. The first trades in the book mark the market price of that moment. The exchanges have no influence over or involvement with the first price in the order book. Secondly, the price available to purchase or sell a listed option or future is established in the public market; if the available price in the public market would deviate from the fair value it will immediately be corrected via the arbitrage mechanism which is not something that can be predicted or pre-estimated.

## Item 7: Investment advice

Exchanges are not investment firms and as such cannot be required to provide any (no matter how general) investment advice. In addition, there are some practical objections.

When a KID is required for each individual option series, the documents could be regarded as investment advice because investors could select a certain option series based on the performance scenarios of all option series. Mentioning a recommended holding period can also be considered to be investment advice. A regulated market is not supposed to recommend an investment or a holding period.

## Item 8: Complaints



In essence, a retail investor has a contractual relationship with his broker who is the first point of contact. We feel it would be justified to include a language to that extent in the KID. Should there be any complaints about contract terms, brokers (as members of the exchange) can direct their complaints to the exchange. This is part of the regulatory framework of exchange memberships. Exchange rule books establish that members act always in their own name even on behalf of third parties and in many jurisdictions this principle is also vindicated by the statutory environment or case law.

<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>  
TYPE YOUR TEXT HERE  
<ESMA\_QUESTION\_PRIIPS\_1>

**Question 2**

- 1. 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?*
- 2. 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>  
TYPE YOUR TEXT HERE  
<ESMA\_QUESTION\_PRIIPS\_2>

**Question 3**

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

<ESMA\_QUESTION\_PRIIPS\_3>  
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<ESMA\_QUESTION\_PRIIPS\_3>

**Question 4**

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

<ESMA\_QUESTION\_PRIIPS\_4>  
TYPE YOUR TEXT HERE  
<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>  
TYPE YOUR TEXT HERE  
<ESMA\_QUESTION\_PRIIPS\_5>

**Question 6**

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



<ESMA\_QUESTION\_PRIIPS\_6>  
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<ESMA\_QUESTION\_PRIIPS\_6>

**Question 7**

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

<ESMA\_QUESTION\_PRIIPS\_7>  
TYPE YOUR TEXT HERE  
<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>  
TYPE YOUR TEXT HERE  
<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>  
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**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>  
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<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>

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<ESMA\_QUESTION\_PRIIPS\_11>

**Question 12**

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

<ESMA\_QUESTION\_PRIIPS\_12>

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<ESMA\_QUESTION\_PRIIPS\_12>

**Question 13**

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

<ESMA\_QUESTION\_PRIIPS\_13>

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<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>

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<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>  
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**Question 16**

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

<ESMA\_QUESTION\_PRIIPS\_16>  
TYPE YOUR TEXT HERE  
<ESMA\_QUESTION\_PRIIPS\_16>

**Question 17**

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

<ESMA\_QUESTION\_PRIIPS\_17>  
TYPE YOUR TEXT HERE  
<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>  
TYPE YOUR TEXT HERE  
<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>  
TYPE YOUR TEXT HERE  
<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>  
TYPE YOUR TEXT HERE  
<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>  
TYPE YOUR TEXT HERE  
<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>

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<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>

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<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>

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<ESMA\_QUESTION\_PRIIPS\_27>

**Question 28**

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



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

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

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

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

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

<ESMA\_QUESTION\_PRIIPS\_28>  
TYPE YOUR TEXT HERE  
<ESMA\_QUESTION\_PRIIPS\_28>