

Call for evidence on the European Commission mandate regarding the PRIIPs Regulation

Fields marked with * are mandatory.

1. General Information

* Please indicate the desired disclosure level of the comments you are submitting:

- Confidential
 Public

* Stakeholder

ANIA - Associazione Nazionale fra le Imprese Assicuratrici

* Sector

- Investment management
 Insurance
 Banking (structured products/ derivative products)
 Other

* Contact person (name and surname)

* Contact person email

Contact person phone number

2. Introduction

In the September 2020 new Capital Markets Union Action Plan, the European Commission (Commission) announced its intention to publish a strategy for retail investments in Europe in the first half of 2022.

In May 2021, as part of its evidence gathering, the Commission launched a three-month public consultation on a wide array of aspects related to retail investor protection. [1] The Commission is also undertaking an extensive study that was launched in 2020, which involves analysis of the PRIIPs Key Information Document (KID), as well as other disclosure regimes for retail investments. This study will involve extensive consumer testing and mystery shopping, with the aim to ensure that any future changes to the rules will be conceived from the perspective of what is useful and necessary for consumers.

On 27 July 2021, the Commission sent to the JC of the ESAs a request for advice asking the ESAs to assist the Commission in the preparation of legislative proposals implementing aspects of the retail investment strategy, and more specifically regarding a review of Regulation (EU) 1286/2014 on packaged retail and insurance-based investment products (PRIIPs) [2]. The deadline for the ESAs to provide their advice is 30 April 2022.

The Commission invited the ESAs to provide advice on the following main areas:

- A general survey on the use of the KID
- A general survey on the operation of the comprehension alert in the KID
- A survey of the practical application of the rules laid down in the PRIIPs Regulation
- An assessment of the effectiveness of the administrative sanctions, measures, and other enforcement actions for infringements of the PRIIPs Regulation
- An assessment of the extent to which the PRIIPs Regulation is adapted to digital media
- An examination of several questions concerning the scope of the PRIIPs Regulation

For most of the areas set out above, additional more specific elements to be addressed were identified in the mandate; for instance for the general survey on the use of the KID there are four sub-elements, including to provide evidence on the extent to which marketing information aligns with the information in the KID.

Notwithstanding the mandate provided by the Commission, the information collected and analysis conducted by the ESAs since 2018 would indicate that changes to the PRIIPs Regulation are needed in other areas, besides those addressed in the mandate, in order to achieve the optimal outcomes for retail investors. Indeed, the ESAs have previously provided their views on the need for changes to the PRIIPs Regulation in a number of areas. [3] Consequently, this call for evidence requests feedback on a range of other issues, where the ESAs are considering the relevance to additionally provide advice to the Commission.

In parallel with sending the call for advice on the PRIIPs Regulation to the ESAs, the Commission also sent separate calls for advice individually to EIOPA [4] and ESMA [5] regarding other aspects of retail investor protection, as part of the work to develop a retail investment strategy. The ESAs are seeking to coordinate the work undertaken for these different mandates.

The ESAs acknowledge that the importance and complexity of the topics set out in the Commission's request for advice call for a thorough involvement of stakeholders to ensure that they can adequately contribute to the formulation of the advice from the beginning of the process. At the same time, the short timeframe available to prepare this advice, places constraints on the type of consultation and time that can

be given for responses. Taking into account these constraints, as well as the nature of the request from the Commission, which seeks various different types of evidence regarding current market practices, the ESAs have decided to launch a call for evidence. The responses provided will be used to shape the technical advice to the Commission. The ESAs also plan to hold a stakeholder event in Q1 2022 before finalising the advice. Further details about this event and how to register will be available via the relevant sections of the ESAs' websites in due course.

Where questions in this call for evidence ask for respondents' "experiences" regarding a certain issue or topic, **please provide information regarding the basis for the views provided**. This might include whether the views are based on actual experiences, such as selling, advising on, or buying PRIIPs, a survey of market participants, academic research undertaken etc. Manufacturers of products, which currently benefit from an exemption to produce a KID, such as fund managers, are not precluded from sharing evidence or experience under this call, but should clarify the context in which they would provide comments.

[1] EU strategy for retail investors (europa.eu)

[2] Call for advice

[3] See for example the Joint ESA Supervisory Statement – application of scope of the PRIIPs Regulation to bonds (JC 2019 64), or the Final Report following consultation on draft regulatory technical standards to amend the PRIIPs KID (JC 2020 66).

[4] Call for advice to EIOPA regarding certain aspects relating to retail investor protection | Eiopa (europa.eu)

[5] Call for advice to the European Securities and Markets Authority (ESMA) regarding certain aspects relating to retail investor protection (europa.eu)

1. Please provide any general observations or comments that you would like to make on this call for evidence, including any relevant information on you/your organisation and why the topics covered by this call for evidence are relevant for you/your organisation.

As general observation, we would like to stress that revised Regulatory Technical Standards (RTS) are yet to be implemented and the ESAs could issue clarifications on the new rules in the next months; this process forces the insurers to give comments on a not yet clear regulatory framework and it does not help a proper understanding of the effectiveness and functioning of the different provisions.

Based on our experience with the implementation of the PRIIPs Key Information Document (KID), the review of the PRIIPs framework should aim at an overall simplification, to improve the clarity and usefulness of the KID. In particular, ANIA presents the following proposals:

- the number of figures in the PRIIPs KID should be reduced and more prominence should be given to essential information on the existence or lack of insurance covers, guarantees and other benefits; this would be a material improvement to help consumers understand products' features;
- the requirement to provide the PRIIPs KID on paper by default is outdated; the delivery of pre-contractual documents in an electronic format should be considered at the same level; the use of layering and cross-referencing through hyperlinks should also be promoted;
- a significant number of the IBIPs are multi-option products (MOPs), which provide consumers with a wide and personalised offer; the current approach for MOPs allows the necessary flexibility to product manufactures and must be retained; this includes the possibility to continue using UCITS KIDs produced directly by UCITS manufacturers to provide information on the MOPs' underlying options that are UCITS;
- clarity on the fixed information is important, but some flexibility in the wording of the narratives should be allowed to better adapt to product specificities or other needs, also in terms of length and clarity of the translations in the different languages; this would also be helpful to ensure a more consistent terminology in

the information provided in the different countries;

- to ensure consumers receive high quality information, it is key to allow sufficient time for the implementation of any new provision; manufacturers need at least 12 months from the publication in the Official Journal of the European Union of all the measures at Level 1 and 2 to implement any required changes, given the significant compliance and operational effort required from the industry.

3. Call for evidence

3.1 General survey on the use of the KID

Extract from the call for advice

A general survey on the use of the PRIIPs KID across the Union, including, to the extent feasible, evidence on:

- *The number and type of products and their market share for which PRIIPs KIDs are produced and distributed.*
- *The recent developments and trends on the market for PRIIPs and other retail investment products.*
- *The extent to which PRIIPs KIDs are used by product distributors and financial advisors to choose the products they offer to their clients.*
- *To the extent feasible, the extent to which marketing information aligns with or differs from the information in the PRIIPs KIDs.*

In terms of this general survey, it can be relevant to clarify that regarding the third bullet point in the mandate above, the ESAs understand that evidence is sought on the extent to which the information in the KID is used by persons advising on, or selling, PRIIPs separate from the obligation to provide the KID to the retail investor. This might include, for example, identifying if a product is suitable for the retail investor. For this topic, the ESAs would like to ask for feedback to the following questions:

2. Do you have, or are you aware of the existence of, data on the number, type and market share of different types of PRIIPs? If you have such data, would you be in a position to share it with the ESAs?

The PRIIPs definition includes a wide range of IBIPs. Only insurers are able to offer products that combine investment with unique features such as insurance covers, guarantees or capital protection mechanisms, flexibility of payments, etc. Such elements can be designed and structured in many different ways, to offer a diversified choice to consumer and better adapt their needs. For example, the current definition of IBIPs includes unit-linked or index-linked products, profit participation products and hybrid products.

All these products can have different types and levels of guarantees at maturity, be linear or structured in asset allocation, static or dynamic in asset management and in many cases they allow consumers to choose among different underlying investment options (MOPs). Furthermore, it is important that all the different types of IBIPs are truly taken into account in the discussion, for example on MOPs.

In the Italian market, at the end of third quarter 2021, IBIPs accounted for 70,7 billion premium, representing 90% of the overall life premium. MOPs covered 47% of the total life premium, being the remaining 53%

covered by “stand-alone” IBIPs, like unit-linked only or traditional with-profit only products.
We can estimate that currently in the Italian market there are more than 700 IBIPs of which more than 200 MOPs (hybrid products), more than 200 traditional product and more than 200 unit-linked products.

3. In your position as product distributor or financial advisor, to what extent do you make use of KIDs to choose or compare between the products you offer to your clients? In case of trading online, does your platform offer an automatised tool that can help the retail investor in making comparisons among products, for instance using KIDs?

The PRIIPs KID is not designed to be the main or only training or sales tool for distributors. Distributors consider all relevant information, including the KID, to advice their clients professionally, honestly, and fairly, and provide a copy of the KID to consumers in compliance with the applicable rules. The KID allows distributors to illustrate to the customer the technical characteristics of the product, even for direct distribution channel.

Therefore, the information contained in the KID are also used to integrate certain analysis and for the construction of internal indicators.

In any case, Insurance Distribution Directive (IDD) already ensures that distributors:

- Receive appropriate information from product manufacturers on insurance products, including on the product approval process, the identified target market and the suggested distribution strategy, to fully understand the products they intend to distribute.
- Perform a suitability appropriateness and/or demands and needs assessment, depending on the applicable conditions, to make sure that products proposed to consumers meet their needs.
- Provide fair, clear and not misleading information to consumers.
- Undertake a minimum of 15 hours of professional development training per year to continuously update their knowledge and abilities.

Based on the IDD rules, distributors are equipped with the different information and tools they need, and act under high standards of consumer protection.

Trading online does not play a significant role in the IBIPs Italian market, since IBIPs have a lot of features, it is not reasonable to compare them based on price (premium), since premium is chosen by the consumer, and they are usually meant for long-term saving, then many consumers still prefer the advice of a human being.

4. If this is the case, what is preventing distributors or financial advisors from using the KID when they choose a product for a client?

Distributors don't choose a product for a client, they advice a product to the client, who choose it or not. Distributors can use the KID for the advice, even if for MOPs KID is not always a reliable illustration of the offer, especially when the product offers combination of options (e.g. asset allocation changing during the lifetime of the contract depending on life-cycle criteria).

5. In your experience, e.g. as a retail investor or association representing retail investors, to what extent are KIDs used by distributors or financial advisors to support the investment process? Is marketing material used instead or given greater emphasis?

6. What are your experiences regarding the extent of the differences between marketing information and the information in the KID? What types of differences do you consider to be the most material

or relevant in terms of completeness, plain language, accuracy and clarity? What do you think might be the reason(s) for these differences?

We are not aware of any systemic problem regarding the relationship between the KID and marketing material.

Marketing communications are already regulated under the PRIIPs Regulation and the IDD, to ensure that all information is fair and not misleading, and marketing materials are clearly identifiable as such.

In terms of differences, marketing communications permit to describe IBIPs' features (e.g. additional services, optional biometric coverages, annuity pay-out) that cannot be properly illustrated in the KID.

Plus, the "taxonomy" required in the KID is not always coherent with insurance taxonomy, for example: "investment" (PRIIPs) is used instead of "insurance premium"; "insurance premium" (PRIIPs) is used instead of "risk part of the premium". See further examples in Q18.

3.2 General survey on the operation of the comprehension alert

Extract from the call for advice:

A general survey on the operation of the comprehension alert, taking into account any guidance developed by competent authorities in this respect, the survey should gather data on the number and types of products that include a comprehension alert in the PRIIPs KIDs, and to the extent feasible, evidence on whether retail investors and financial advisors consider the comprehension alert in their investment decisions and/or advice.

For this topic, the ESAs would like to ask for feedback to the following questions:

7. What are your experiences regarding the types of products that include a comprehension alert?

The comprehension alert is valuable only if it allows to identify the products with the most complex structures and that involve higher risks for consumers.

We believe IDD definition a good balance among the safety of the guarantee of traditional insurance product and the simplicity of the financial structure of underlying investments imported by MIFID.

However, we think that the generic reference to "a structure that is difficult to understand" in the IDD definition is not clear and should therefore be canceled.

8. Do you have or are you aware of the existence of data on the number and type of products that include a comprehension alert? If you have such data, would you be in a position to share it with the ESAs?

We can estimate that the majority of IBIPs include a comprehension alert.

9. What are your experiences regarding the extent to which retail investors take into account the inclusion of the comprehension alert?

10. As a retail investor or association representing retail investors, are you aware of the existence of a comprehension alert for some PRIIPs?

11. What are your experiences regarding the extent to which financial advisors consider the comprehension alert?

3.3 Survey on the practical application of the rules

Extract from the call for advice:

A survey of the practical application of the rules laid down in the PRIIPs Regulation, taking due account of developments in the market for retail investment products, which should include practical evidence on:

- *To the extent feasible, the amount and nature of costs per PRIIP to various market participants of complying with the requirements of the PRIIPs Regulation, including the costs of manufacturing, reviewing, revising, and publishing PRIIPs KIDs, including as a proportion of total PRIIP costs.*
- *To the extent feasible, the extent to which the PRIIPs Regulation is applied in a consistent manner across the EU for the most commonly sold types of PRIIPs.*
- *The supervision of the PRIIPs KID, including the percentage of cases where inaccurate PRIIPs KIDs were identified by NCAs.*
- *The number of relevant mis-selling events before and after the introduction of the PRIIPs KID, including through data on the number of complaints received, number of sanctions imposed, and other relevant data.*

Concerning this topic, the ESAs would like to ask for feedback to the following questions:

12. For PRIIP manufactures or sellers:

12. a) Please describe the different types of costs incurred to comply with the PRIIPs Regulation.

There are one-off and ongoing costs to be considered, which can vary depending on the frequency of any significant changes that trigger the PRIIPs KID revision and are aggravated by continuous regulatory changes.

The costs of implementation include:

- Cross-functional work to interpret the requirements
- Data to be gathered
- Actuarial and financial calculations
- IT software implementation
- Design of the PRIIPs KID template
- Test of calculations and design
- Legal assessment of the texts and numbers
- Potential translation into different languages
- Distribution to agents and customers
- Training for distributors

- Update of the website
- Outsourcing of part of the activities or the whole process
- Review of other pre-contractual documents and the pre-contractual information process
- Duplication of costs in case of regulatory changes and late guidance.

Then, any changes to the PRIIPs KID framework results in significant costs for PRIIPs manufacturers.

12. b) Can you provide an estimate of the average costs per PRIIP of complying with the requirements of the PRIIPs Regulation? Where possible, please provide a breakdown between the main types of costs, e.g. manufacturing, reviewing, publishing, etc.

This is impossible to quantify average cost per product, as it also depends on the size of the company and of the distribution network, the need of the company to outsource activities or not, the number and type of products in portfolio, the frequency of review, etc. However, it has to be mentioned that in general compliance costs represent a significant cost part.

12. c) Can you provide an estimate of what proportion of the total costs for the product are represented by the costs of complying with the PRIIPs Regulation?

See Q12.b

13. What are your experiences regarding the extent to which the PRIIPs Regulation is applied in a consistent manner across the EU for the most commonly sold types of PRIIPs? What are the main areas of inconsistencies?

3.4 Use of digital media

Extract from the call for advice

An assessment of the extent to which the PRIIPs Regulation is adapted to digital media. This survey shall include an evidence-based assessment of:

- *To the extent feasible, the actual use of various types of physical and digital media for delivering or displaying the PRIIPs KID to retail investors.*
- *To the extent feasible, the preferred digital or physical media for retail investors to access and read PRIIPs KIDs, and the appropriateness of the PRIIPs Regulation for allowing access to and readability of PRIIPs KID on such platforms.*
- *The appropriateness of the approach taken in the PEPP Regulation 2019/1238 for displaying the PEPP KID on digital media for the PRIIPs KID.*

Article 14 of the PRIIPs Regulation lays down rules regarding the types of media that can be used to provide the KID to the retail investor. It is specified that the use of paper format should be the default option where a PRIIP is offered on a face-to-face basis, but that it is also possible to provide the KID using a

durable medium other than paper or by means of a website, if certain conditions are met. These conditions include, for example, that the retail investor has been given the choice between paper and the use of another durable medium or website.

The PEPP Regulation[1] provides rules regarding the distribution of the PEPP KID either electronically or via another durable medium in Article 24. For the PEPP KID, electronic distribution can be seen as the “default” approach, but customers need to be informed about their right to request a copy on another durable medium, including paper, free of charge.

For PEPP KIDs provided in electronic format, the PEPP Regulation also allows for the layering of information (Article 28(4)). This means that detailed parts of the information can be presented through pop-ups or through links to accompanying layers. In general terms, layering allows the structure of the information to be presented in different layers of relevance: for example from the information “at a glance” that is essential for all audiences, to more detailed information being readily available in a subsequent layer for those interested, and so forth.

Concerning this topic, the ESAs would like to ask for feedback to the following questions:

[1] REGULATION (EU) 2019/1238 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 20 June 2019 on a pan-European Personal Pension Product (PEPP) (OJ L 198, 25.7.2019, p. 1)

14. Do you have or are you aware of the existence of data on the use of different media? If you have such data, would you be in a position to share it with the ESAs?

We do not have data on the use of various type of physical and digital media for delivering or displaying the PRIIPs KID to retail investors.

The COVID-19 crisis provided a clear demonstration of the importance of digital communication for business continuity and accelerated consumers’ expectations of being able to carry out paperless transactions. Now, more than ever, consumers and insurers need a regulatory framework that is fit for purpose and digital friendly.

In this respect, we appreciate that Article 14 of the PRIIP Regulation already allows for the provision of the KID electronically or via a website.

However, Article 14 of should be revised in order to avoid the use of paper as a default requirement for the provision of information and to put the provision of information through digital media on the same level. Even the use of layering and cross-referencing through hyperlinks should be promoted.

Beside ensuring legal certainty, the framework for the technical implementation of an electronic format should be as flexible as to allow insurance companies to provide the KID in an electronic format that corresponds to their digital strategy, their needs and possibilities for the customer journey.

15. What are your experiences as a product manufacturer or product distributor or financial advisor regarding the preferred media for retail investors to access or read the KID? Are there challenges for retail investors to receive the KID in their preferred media, such as due to a certain medium not being offered by the distributor?

The challenges for retail investors to receive the KID in their preferred media stem from the following regulatory practices:

- We welcome the fact that Article 14 of the PRIIP Regulation allows for the provision of the KID via electronic means, including via a website which meets specific criteria. However, the use of paper as the unique default option for the provision of information is not in line with the progressing digitalization. Pre-

contractual documents should be available also in an electronic format, that should be considered a medium to provide KID on the same level of paper;

- Lack of a sufficient and comprehensive consumer testing of legislative proposals on consumers disclosures. To assess challenges and benefits of the different solutions, authorities and legislators must test them on a wide range of products, consumers and markets. Stakeholder consultation is also important to integrate real-world experience, provided that full details of the proposed solutions are explained in the consultation paper.

16. How do you as a retail investor, or association representing retail investors, prefer to receive or view the KID?

17. What are your experiences regarding the preferred media for product distributors and financial advisors when using the KID?

We do not have such data.

However, simple and clear rules on consumer disclosures are key for a smooth and efficient process. In this respect, the cumulative impact of the Solvency II Directive, the PRIIPs Regulation, the IDD and the General Data Protection Regulation (GDPR) led to an excessive increase in the number of individual disclosures that distributors are required to make to a customer at the precontractual stage when selling an IBIP. The number of disclosures for the online sale of an IBIP by an intermediary has now reached an infeasible 161 and will increase even further with the new SFDR and the Taxonomy Regulation (TR), up to 190 pieces of pre-contractual disclosures. Moreover, Solvency II, the PRIIPs Regulation, the IDD, the PEPP Regulation and the Distance Marketing Directive require the cumulative disclosure of fully or partially equivalent information to consumers. Examples include fully equivalent information on the insurer's identity, the duration of the contract, the description of the underlying instruments, the description of the surrender /cooling-off periods, the risks and the existence and details of procedures for complaints. In addition, partially equivalent information also needs to be provided, including the product benefits, the costs/payment and the tax arrangements.

18. Should changes be made to the PRIIPs Regulation so that the KID is better adapted to use on different types of media?

Yes, Article 14 of the PRIIPs Regulation needs to be revised to avoid the use of paper as a default requirement for the provision of information. Also, an excessive number of figures does not help consumers' understanding on any media. The following simplifications can be envisaged:

- The current PRIIPs KID displays around 20 figures on costs, that will increase to around 30 different figures under the revised RTS. This can be simplified including in the 'What are the costs?' section only the information that is essential for consumers, namely the total aggregate costs expressed in Reduction in Yield (RiY) and the annualized monetary costs, both expressed at the end of the Recommended Holding Period (RHP), with no need to show intermediate time periods. The second table on costs could be deleted;
- The "What is this product?" section of the KID alone includes 7 different types of disclosures on costs, but it only allows a too short mention of the insurance covers, while it is a crucial information for consumers choice. The information on the existence, or lack, of insurance covers, guarantees or other capital protection mechanisms should be prominently displayed instead;
- The "What are the risks and what could I get in return?" section could also be simplified, with no need to show intermediate time periods and provide additional information on the product performance based on a different methodology in the "Other relevant information" section for certain categories of products.

As to the narratives, clarity on the fixed information is important, but some flexibility could be allowed to better adapt to product specificities or other needs, also in terms of length and clarity of the translations in the different languages

19. Do you think it would be appropriate to apply the approach taken in the PEPP Regulation 2019 /1238 (highlighted above) to the PRIIPs KID?

Overall, it would be premature to assess the understandability and reliability of the PEPP KID. The PEPP Regulation and technical standards will enter into force in March 2022. Due to the absence of practical experience, it is not possible to draw lessons from the PEPP KID and authorities should refrain from using it as an automatic blueprint.

3.5 Scope of the PRIIPs Regulation

Extract from the call for advice:

An examination of the following questions concerning the scope of the PRIIPs Regulation:

- *whether the exemption of the products referred to in Article 2(2) points (d), (e), and (g) of the PRIIPs Regulation from the scope of PRIIPs should be maintained, in view of sound standards for consumer protection, including comparisons between financial products.*
- *whether the scope of the PRIIPs Regulation should be extended to additional financial products.*

The points referred to Article (2) of the PRIIPs Regulation concern:

(d) securities as referred to in points (b) to (g), (i) and (j) of Article 1(2) of Directive 2003/71/EC;
(e) pension products which, under national law, are recognised as having the primary purpose of providing the investor with an income in retirement and which entitle the investor to certain benefits;
(g) individual pension products for which a financial contribution from the employer is required by national law and where the employer or the employee has no choice as to the pension product or provider.

In 2019 the ESAs published a Supervisory Statement on the application of the scope of the PRIIPs Regulation to bonds (JC 2019 64). In this statement it was stated that:

Ultimately, in order to fully address the risk of divergent applications by NCAs, the ESAs recommend that during the upcoming review of the PRIIPs Regulation, the co-legislators introduce amendments to the Regulation in order to specify more precisely which financial instruments fall within the scope of the Regulation. We would also recommend to reflect more expressly the stated intention of the PRIIPs Regulation[1] to address packaged or wrapped products rather than assets which are held directly, to avoid any legal uncertainty on this point.

Taking this Statement into account, the ESAs are interested in feedback on a number of additional issues besides those specified in the mandate from the Commission. Thus, concerning the topic of scope, the ESAs would like to ask the following questions:

[1] This is stated in recitals 6 and 7.

20. Do you think that the scope of the PRIIPs Regulation should be extended to any of the products referred to in Article 2(2), points (d), (e) and (g)? Please explain your reasoning.

The current exemptions for pension products should be retained. Pension products have very specific objectives as well as a special fiscal and regulatory treatment at national level. Therefore, there are national tailored information requirements on pensions. The PRIIPs Regulation and related RTS were designed for retail investment products, some of which are speculative products with a short-term horizon. These products are significantly different in nature to pension products which were, as a result, explicitly left out of the scope of the PRIIPs Regulation.

21. Do you think that the scope of the PRIIPs Regulation should be changed with respect to other specific types of products and if so, how?

It is disappointing to propose an expansion of the scope of the PRIIPs Regulation instead of recognizing the fact that the current scope is too broad, in an overly ambitious attempt to apply the same methodology to products with very different features, that are meant to address very different consumer needs. Forcing more and more products to be into the scope of the PRIIPs Regulation, while their main objective is not investment and while the KID does not properly display the specific features of these products, will only result in unreliable KIDs that risk misrepresenting these products and misleading consumers. The PRIIPs review should seek to achieve meaningful and fit-for-purpose disclosures.

22. Do you think changes should be made to specify more precisely which types of financial instruments fall within the scope of the PRIIPs Regulation? Please specify the amendments that you think are necessary to the Regulation.

23. Do you have specific suggestions regarding how to ensure that the scope of the PRIIPs Regulation captures packaged or wrapped products that provide an indirect exposure to assets or reference values, rather than assets which are held directly?

The question is not relevant for insurance-based investment products.

24. Do you agree with the ESA Supervisory Statement relating to bonds and what are your experiences regarding the application of the Statement?

The question is not relevant for insurance-based investment products.

25. Do you think that the definitions in the PRIIPs Regulation relating to the scope should take into account other elements or criteria, e.g. relating to the maturity of the product, or relating to a product only having a decumulation[1] objective, or where there is not active enrolment[2]?

[1] For example an annuity.

[2] This might include, for example, employment based incentive schemes

As already stated in the answer to Q21, ANIA believes that the scope of products included in the PRIIPs Regulation is too broad, in an overly ambitious attempt to apply the same methodology to products with very different features that are meant to address very different consumer needs.

In addition to the above, any modification to the definitions in the PRIIPs Regulation relating to the scope should not be intended to include pension products, which have very specific objectives as well as a special fiscal and regulatory treatment at national level.

26. Do you think that the concept of products being “made available to retail investors” (Article 5(1) of the PRIIPs Regulation) should be clarified, and if so, how?

In general, insurers have not experienced any problems on this point which would require a clarification.

27. Do you think it would be beneficial to develop a taxonomy of PRIIPs, that is, a standardised classification of types of PRIIPs to facilitate understanding of the scope and that could also be used as a basis for the information on the “type of the PRIIP” in the ‘What is this product?’ section of the KID (Article 8(3)(c)(i) of the PRIIPs Regulation)? If yes, do you have suggestions for how this could be done?

No, a PRIIPs categorization is already existing and a more detailed standardised classification of types of PRIIPs would not be useful. Since IBIPs can be designed and structured in many different ways from country to country, a standardised classification could even be confusing or misleading for consumers.

3.6 Differentiation between different types of PRIIPs

Following a targeted consultation on PRIIPs towards the end of 2018, the ESAs’ Final Report published in February 2019 (JC 2019 6.2), which proceeded further work on a review of the PRIIPs Delegated Regulation, stated (page 14):

- *Differentiation between different types of PRIIPs: taking into account information regarding challenges to apply the KID to specific product types, for example very short-term products or specific types of insurance or pension products, it is intended to analyse if it is appropriate to introduce some additional differentiation in how the rules apply to different types of products, while still adhering to the overarching aim of comparability between substitutable products.*

This aspect was considered during the review of the PRIIPs Delegated Regulation initiated in 2019, but this work was conducted within the constraints of the existing PRIIPs Regulation. In the context of reviewing the PRIIPs Regulation, consideration could be given to the following types of approaches:

- The development of broad product groupings or buckets of similar products. A more tailored approach could be taken for each of these groupings, with the aim to ensure the meaningfulness of the information and prioritising comparability within these groupings. This might also ease the comparability between the PRIIPs Regulation and sectoral legislation (such as MiFID, IDD) on certain disclosure requirements;
- A reduced degree of standardisation in the KID template;
- Provisions that would allow for supervisory authorities to grant exemptions or waivers from the requirements in duly justified cases.

28. Do you think that the current degree of standardisation of the KID is detrimental to the proper understanding and comparison of certain types of PRIIPs? If so, which products are concerned?

Pre-contractual information should strike a right balance between comprehensibility and comparability. Information should also reflect insurance products' distinctive features so consumers can better understand differences between products which will aid their decision making. In the PRIIPs KID there is no space to properly explain insurance covers and guarantees. If there are no insurance covers or guarantees, the information is simply omitted. This does not help consumers to understand the specificities of insurance products or to properly assess costs and benefits.

29. Do you think that greater differentiation based on the approaches highlighted above, is needed within the PRIIPs Regulation? If so what type of approach would you favour or do you have alternative suggestions?

See Q27.

30. Do you have suggestions for how a product grouping or product buckets could be defined?

3.7 Complexity and readability of the KID

Taking into account the views previously expressed by some stakeholders that the information in the KID is overly complex and contributes towards an information overload for the retail investor, the ESAs would like to ask for suggestions on how the KID could be improved in this respect.

There can also be a link between this issue and the use of techniques such as layering as referred to above in the context of the digital KID (see Section 3.4), as well as other design techniques, such as the inclusion of visual icons or dashboards at the top of documents[1].

[1] Dashboards can include the most essential information at the top of the document. This is the approach taken, for example, for the PEPP KID - "PEPP at a glance" in Annex I of PEPP Delegated Regulation 2021/473 point 4 and the template in part II.

31. Would you suggest specific changes to Article 8 of the PRIIPs Regulation in order to improve the comprehensibility or readability of the KID?

The essential information should be prominently displayed at the top of the document, to ensure consumers are informed about important product features. We believe that the essential information for consumers is the existence or lack of guarantees, the existence or lack of insurance covers, the existence or lack of other capital protection mechanisms.

In the 'What is this product?' section of the PRIIPs KIDs, insurers are only permitted to include a very short description of the insurance cover, which is not sufficient to explain the attached benefits and exclusions. Rather than providing key descriptions of the insurance cover that is engaging for consumers, this section of the KID focuses on the costs of these features, requiring insurers to overwhelm consumers with a repetitive number of different cost terms. These figures on costs come on top of an already very comprehensive KID section on costs. This variety of figures will confuse and overwhelm consumers with too much data that can be difficult to understand, while the basic description is lacking. It also encourages consumers not to read the information on insurance cover which is key for insurance products.

The "What are the risks and what could I get in return?" and "What are the costs?" sections could be simplified, reducing the number of figures and intermediate time periods in which results must be shown.

32. How could the structure, format or presentation of the KID be improved e.g. through the use of visual icons or dashboards?

To assess challenges and benefits of the different solutions, authorities and legislators must test them on a wide range of products, consumers and markets. Stakeholder consultation is also important to integrate real-world experience, provided that full details of the proposed solutions are explained in the consultation paper.

3.8 Performance scenarios and past performance

In the ESAs' draft regulatory technical standards (RTS) to amend the PRIIPs Delegated Regulation submitted to the Commission in February 2021[1] (and adopted by the Commission on 7 September 2021 [2]), the ESAs included a proposed new requirement for certain types of investment funds and insurance-based investment products to publish information on the past performance of the product and refer to this within the KID. This approach was taken so that the availability of this information would be known, and the information would be published in a standardised and comparable format.

However, the ESAs also stated in the Final Report[3] accompanying the RTS that (on page 4):

the ESAs would still recommend, as a preferred approach, to include past performance information within the main contents of the KID on the basis that it is key information to inform retail investors about the risk-reward profile of certain types of PRIIPs. Since it has been argued that the intention of the co-legislators was for performance scenarios to be shown instead of past performance, it is understood that a targeted amendment to Article 8 of the PRIIPs Regulation would be needed to allow for this. A consequential amendment is also considered necessary in this case to allow the 3 page limit (in Article 6(4)) to be exceeded to 4 pages where past performance information would be included in the KID;

Besides the issue of past performance, the ESAs' work under the empowerment in Article 8(5) regarding the methodology underpinning the performance scenarios has raised significant challenges. Since the ESAs first started to develop these methodologies from 2014 onwards, it has proved very difficult to design appropriate performance scenarios for the different types of products included within the scope of the PRIIPs Regulation that would allow for appropriate comparisons between products, avoid the risk of generating unrealistic expectations amongst retail investors and be understandable to the average retail investor. In particular, no academic consensus has been reached on how to develop common performance scenarios that would be equally appropriate for all types of PRIIPs, proving the inherent difficulty of such an approach.

In this context, the ESAs would like to ask for feedback on:

[1] EIOPA's Board of Supervisors agrees on changes to the PRIIPs key information document | Eiopa (europa.eu).

[2] Implementing and delegated acts | European Commission (europa.eu)

[3] JC 2020 66 (30 June 2020)

33. Do you agree with the ESAs' assessment in the Final Report (JC 2020 66) regarding the treatment of past performance?

The worst solution for consumers would be to include two performance scenarios tables in the PRIIPs KID, as this would not help consumers understanding. In contrast, it would overload consumers with further information.

Such an overload of figures, obtained through different methodologies (past performance is anchored in actual historical data, while future scenarios show the range of possible outcomes), would only confuse consumers, and not simplify their choice.

34. Would you suggest changes to the requirement in Article 8(3)(d)(iii) of the PRIIPs Regulation concerning the information on potential future performance, and if so what would you specifically change in the Regulation?

As mentioned in Q33, the worst solution for consumers would be to include two performance scenarios tables in the PRIIPs KID, as this would not help consumers understanding. What could really help consumer understanding would be to reduce the intermediate time periods in which results must be shown and display more prominently the existence, or lack of, insurance covers, guarantees and other capital protection mechanisms.

Moreover, we suggest to add a disclaimer also under the future performance scenarios in which the consumer is informed that “future performance scenarios are based on past performances, then results could be influenced by historical trends of the underlying investments”.

3.9 PRIIPs offering a range of options for investment (Multi-Option Products (“MOPs”))

In the ESA Consultation Paper of October 2019 on proposed amendments to the PRIIPs KID (JC 2019 63), the ESAs stated that their analysis of the implementation of the rules for MOPs indicated some significant challenges regarding the clarity and usefulness of the information provided to retail investors. In particular, it was stated that (page 51):

Where a generic KID is used (in accordance with Article 10(b) of the PRIIPs Delegated Regulation), it is difficult for the investor to identify the total costs related to a particular investment option. This arises because the generic KID shows a range of costs, but does not always identify which costs are specific to an investment option and which costs relate to the insurance contract. At the same time, it is understood that the information on the underlying investment option (in accordance with Article 14 of the PRIIPs Delegated Regulation), does not usually include the total costs of investing in that option. Therefore, it is often not possible for the investor to identify from the generic KID the costs that may apply in addition to those shown in the option-specific information.

One of the proposals in the Consultation Paper was to introduce a differentiated treatment for the ‘most commonly selected investment options’ (page 52). In the final draft RTS following the consultation, the proposals relating to the most commonly selected investment options were not included taking into account various implementation challenges raised by respondents to the public consultation.

However, the ESAs introduced some specific changes to the approach for MOPs, for example to require the separate disclosure in certain cases of the costs of the insurance contract or wrapper. It was considered that these changes would result in material improvements to the current KID. At the same time, despite these proposed changes, there are still considered to be material issues that were not possible to address within the constraints of the review of the PRIIPs Delegated Regulation.

In the Final Report (JC 2020 66), the ESAs also stated at that stage that they consider the optimal way to address the challenges for MOPs is to use digital solutions, but that this would require changes to the PRIIPs Regulation.

As part of the May 2021 consultation from the Commission on the Retail Investment Strategy, feedback was also requested on the approach for MOPs to require a single, tailor-made KID, reflecting the preferred underlying investment options of each investor, to be provided.

In this context, the ESAs would like to ask for feedback on the following questions regarding potential alternative approaches for MOPs that might require a change of the PRIIPs Regulation:

35. Would you be in favour of requiring a KID to be prepared for each investment option (in accordance with 10(a) of the PRIIPs Delegated Regulation) in all cases, i.e. for all products and for all investment options[1]? What issues or challenges might result from this approach?

[1] This approach assumes complete investment in a single investment option and requires the KID to include all costs.

No. In some markets there are MOPs that offer consumers a very large number (i.e. several hundreds) of investment options to choose from. Therefore, there is an almost endless number of combinations of MOPs and underlying investment options in these insurance markets. Consumers generally choose several different underlying investments and invest different amounts in each option in order to diversify their investment. Therefore, an approach assuming complete investment in a single investment option is not realistic as it does not reflect the real-life behavior of consumers. Given this, such approach would not improve the level of accuracy of the information received by consumers, for example on total costs. Besides, if the cost of the insurance contract were included in the total cost in each of the underlying specific information documents, the cost of the insurance contract would be calculated several times instead of once. This would be very confusing and would mislead the consumers in relation to the total cost of the product. The current approach, that allows the use of a generic KID, meets the need to rationalize the pre-contractual information and allows consumers to have a general overview of the product. The great diversity of underlying investment options is possible thanks to the current Article 10(b), which enables the PRIIPs manufacturer to produce a generic KID combined with the document produced by the underlying investment option. Removing the current 10(b) option would lead to a reduced number of underlying options and hence hinder the customer's possibility to choose from a wide variety of investment options. It would be very challenging to build a robust technical solution to comply with 10(a) and to always keep such a solution up to date with the latest data for all underlying investment options. Hence, it is essential to maintain the current 10(a) and 10(b) options which allow more flexibility and a more efficient use of the UCITS KIDs that will be produced directly from UCITS manufacturers. In any case, the client can access further information and professional advice based on the IDD provisions.

36. Would you be in favour of requiring an approach involving a general product information document (along the lines of a generic KID) and a separate specific information document for each investment option, but which avoids the use of cost ranges, such as either:

- **A specific information document is provided on each investment option, which would include inter alia all the costs of the product, and a generic KID focusing more on the functioning of the product and which does not include inter alia specific information on costs?; or**

- **The costs of the insurance contract or wrapper would be provided in a generic KID (as a single figure) and the costs of the underlying investment option (as a single figure) would be provided in the specific information document?**

What issues or challenges might result from these approaches?

Since in the real-life consumers choose different combination of options and invest different amounts in each option, the approach in the first bullet point would not improve the level of accuracy of the information received. If the cost of the insurance contract were included in the total cost in each of the underlying specific information documents, the cost of the insurance contract would be calculated several times instead of once. This would be very confusing and would mislead the consumers in relation to the total cost of the product.

Hence, it is essential to maintain the current 10(a) and 10(b) options which allow more flexibility and a more efficient use of the UCITS KIDs that will be produced directly from UCITS manufacturers. In any case, the client can access further information and professional advice based on the IDD provisions.

While we understand the intention under the second bullet point, this approach to distinguish the wrapper cost from the cost of underlying investment options is too simplistic and does not work for MOPs, because wrapper cost could vary depending on the underlying investment options chosen by consumer.

37. Do you see benefits in an approach where KIDs are prepared for certain investment profiles or standard allocations between different investment options, or for the most commonly selected options? In this case, what type of information could be provided regarding other investment options?

No, we do not see benefit in identifying investment profiles or most commonly selected options because in the real-life consumers choose different combination of options and invest different amounts in each option then the proposed approaches would not adequately inform consumers about their effective choices nor improve the level of accuracy of the information received.

The reference to “the most commonly selected options” is not easy to understand and the assumptions to be used to identify the most commonly selected options are not clear. The most commonly selected options may vary from distribution channel to distribution channel, depending on consumers’ profiles and based on the evolution of the market (e.g. shifts in consumers’ preferences, economic cycles and new trends). It should also be stressed that the PRIIPs KID is a standardized pre-contractual document. If consumers are presented with the most commonly selected options, there is an obvious risk of confusing them. Consumers would perceive those options as a recommendation, even if those options are not the most suitable to their specific needs and objectives based on the suitability test and the advice consumers may receive under IDD. In this respect, it is not clear how to avoid conflicts between the requirement to provide information on most commonly selected MOPs options and the suitability test provisions.

Hence, it is essential to maintain the current 10(a) and 10(b) options which allow more flexibility and a more efficient use of the UCITS KIDs that will be produced directly from UCITS manufacturers. In any case, the client can access further information and professional advice based on the IDD provisions.

38. Do you have any other comments on the preferred approach for MOPs and or suggestions for changes to the requirements for MOPs in the PRIIPs Regulation?

3.10 Alignment between the information on costs in the PRIIPs KID and other disclosures

In the final draft RTS amending the PRIIPs Delegated Regulation submitted to the Commission in February 2021 (and adopted by the Commission on 7 September 2021), the ESAs sought to introduce changes to the way that cost information is presented in the KID, in particular for non-insurance packaged retail investment products (PRIIPs)[1]. One of the aims of these changes is to achieve a better alignment with disclosure requirements in MiFID and IDD.

At the same time, the ESAs have received representations from stakeholders that there might still be inconsistencies or misalignment between the PRIIPs KID and disclosure requirements in other legislative frameworks. This issue is also related to the issue of appropriate differentiation between different types of PRIIPs (see Section 3.7).

Since the issue of consistency between different disclosure requirements for retail investment products is also addressed in the calls for advice to ESMA and EIOPA, the ESAs will, in particular, coordinate the work on this aspect, and consider the appropriate mandate within which to address any issues that arise.

[1] As defined in point (1) of Article 4 of the PRIIPs Regulation

39. Taking into account the proposals in the ESAs' final draft RTS, do you consider that there are still other inconsistencies that need to be addressed regarding the information on costs in the KID and information disclosed according to other retail investor protection frameworks?

The Reduction in Yield (RiY) is a robust and accurate indicator. In the 2019 Joint Consultation Paper concerning amendments to the PRIIPs KID, the European Supervisory Authorities (ESAs) noted that Reduction in Yield (RIY) figures could be used to comply with requirements in MiFID or the IDD. While the current version of the RTS had a truly comparable representation of costs of all PRIIPs, as there was consistency of representations of total costs (table 1) and composition of costs (table 2) based on the RiY, the changes on costs introduced by the revised RTS represent a step backwards, making it impossible for consumers to compare costs and should be revoked. The changes introduced in 2021 thwart the principle of comparability established since 2014, when the PRIIPs Regulation was adopted.

Besides, an excessive number of figures does not help consumers' understanding on any media. The following simplifications can be envisaged:

- The current PRIIPs KID displays around 20 figures on costs, that will increase to around 30 different figures under the revised Regulatory Technical Standards (RTS). This can be simplified including in the 'What are the costs?' section only the information that is essential for consumers, namely the total aggregate costs expressed in Reduction in Yield (RiY) and the annualized monetary costs, both expressed at the end of the Recommended Holding Period (RHP) and based on the moderate performance scenario. The average cost is more appropriate for long-term products and the total cost at the end of the RHP is the most important cost disclosure. This means that there is no need to show all the intermediate time periods currently set in the regulation, nor a second table with the breakdown of costs. To further simplify the information received by consumers, and avoid confusion between premiums and costs, this distinction should be clearer. Insurance premiums represent the price of insurance coverage and are not costs per se, therefore they should not be shown in the cost tables and the insurance premium should only be reported in the "What is this product?" section.
- The "What is this product?" section of the KID alone includes 7 different types of disclosures on costs, but it

only allows a too short mention of the insurance covers, while it is a crucial information for consumers choice. The information on the existence, or lack, of insurance covers, guarantees or other capital protection mechanisms should be prominently displayed instead. The “What are the risks and what could I get in return?” section could also be simplified, with no need to show all the intermediate time periods currently set in the regulation or to provide additional information on the product performance based on a different methodology in the “Other relevant information” section for certain categories of products.

- Insurance biometric premium are represented as costs, while they are really premium for an insurance service consisting in a coverage against death or other biometric risks.

3.11 Other issues

40. Do you think that other changes should be made to the PRIIPs Regulation? Please justify your response.

Based on our experience with the implementation of the KID, the review of the PRIIPs framework should aim at an overall simplification, to improve the clarity and usefulness of the KID. Concretely, ANIA has already presented proposals (e.g. reduction of figures, equal treatment for paper and electronic format, more prominence for insurance features, flexibility in the wording of the narratives, etc.) to change regulation in the previous responses.

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