ANSWER TO

DISCUSSION PAPER JC/DP/2014/02

KEY INFORMATION DOCUMENTS FOR PACKAGED RETAIL AND INSURANCE-BASED INVESTMENT PRODUCTS (PRIIPs)

The Association Française de la Gestion financière[1] (AFG) welcomes the opportunity to comment on the ESA's Discussion Paper on the Key Information Documents for Packaged Retail and Insurance-based Investment Products (PRIIPs).

General Comments

We appreciate the wish of the ESAs to come up with a single document for all banking and insurance-based packaged products targeted to retail customers and we appreciate the challenge to adjust one single document to different products and regulations.

As the representative of the asset management French industry, we would like to recall the ESAs that retail customers of investment funds (UCITS and FIA) are already benefiting from a KIID and a prospectus; these KIID and prospectus have been deeply discussed and tested between ESMA, professionals and consumers in their own time; they also are strictly regulated and controlled by national regulators. This is obviously not the case for other products targeted by the PRIIPs/KID.

That is the reason why AFG wishes to maintain the UCITS/KIID as it is, as suggested by the European commission. Moreover, the current UCITS/KIID has to be preserved as it is when included in an insurance life unit-linked contract.

We think that the PRIIPs/KID should stay as closest as possible to the UCITS/KIID in order to benefit from the tremendous work performed on the latter.

On more specific points,

[1] The Association Française de la Gestion financière (AFG) represents the France-based investment management industry, both for collective and discretionary individual portfolio managements. Our members include 425 management companies as of end January 2012. They are entrepreneurial or belong to French or foreign banking, insurance or asset management groups. AFG members manage 2,650 billion euros as of end December 2011, making the Paris Fund Industry the leader in Europe for the financial management of collective investments. In the field of collective investment, our industry includes – beside UCITS – employee savings funds, schemes and products such as regulated hedge funds/funds of hedge funds, private equity funds, real estate funds and socially responsible investment. AFG is of course an active member of the European Fund and Investment Management Association (EFAMA) and of PensionsEurope. AFG is also an active member of the International Investment Funds Association (IIFA).

- In MIFID II level 2, ESMA has given the EC some technical advices on cost disclosures and consumer types but with wordings and definitions different from PRIIPs; we recommend that MIFID II and PRIIPs are linked and coordinated on these two topics.

- We wish to point out that when it comes to actively managed products such as investment funds and structured products, some costs cannot be precisely calculated on an ex-ante basis (typically performance fees and transaction costs).

- The notion of maximum loss of invested capital as such does not help investors to have a balanced view on the investment options they are presented and may play against regulators' objective of encouraging long term investing. It would be more precise to specify the level of external guarantee offered by the PRIIP on the invested capital.

- We would also like to take the opportunity of this consultation to express our opinion related to the fact that financial services' clients are above all investors, ie persons/entities that allocate capital with the expectation of a financial return; we are not sure that the general, more passive perceived term of "consumers" term is well adapted in the PRIIPS discussion.

1.7 Interaction with other EU legislation [p. 15]

1. Do you have any views on how draft RTS for the KID might be integrated in practice with disclosures pursuant to other provisions?

3 What are the risks and what could I get in return? [p. 21]
3.3 Definition of risk and reward [p. 23]

2: Do you agree with the description of the consumer´s perspective on risk expressed in the Key Questions?

AFG generally agrees with the description of the investor´s perspective on risk expressed in the Key Questions, since most of these key questions already form the basis of the UCITS KIID and its SRRI, which were consumer tested and which are already applied by asset management companies on UCITS and most of their AIFs.

But we would strongly caution against the use of certain language in the table on page 23f which uses wording like "How much can I win?" & "How much am I likely to win?". This language is more akin to the realm of gambling than investments and clearly would not support the Commission's plans (on the Capital Markets Union) to provide more long-term retail savings to the European real economy. Instead, we would strongly prefer language such as "How much am I likely to get?".

Also, the phrase "Can I get my money back at any moment?" should be reworded to make clear that the money in question is rather the current value at the date of the redemption request and not necessarily the invested amount.

3: Do your agree that market, credit and liquidity risk are the main risks for PRIIPs? Do you agree with the definitions the ESA's propose for these?

Market, credit and liquidity are indeed sufficient risk axes that inform retail investors on the PRIIP characteristics.
But we recommend that each risk is explained in the context of each type of financial product (e.g. credit risk might be differently interpreted between insurance products, derivatives or funds).
AFG is against the calculation of an aggregated indicator, which would be meaningless and difficult to grasp; and as such it would bear the risk of conveying misleading information to investors.

Market risk

ESMA has already done an in-depth work on risk measures and the SRRI which is based on volatility is an adequate measure to grasp market risks. Our investors are now accustomed to this indicator and management firms we represent (of all sizes) had already gone through a costly and burdensome development phase to build on the current SRRI. In the perspective of a coherent PRIIP risk measure, the SRRI's qualities should not be neglected and should constitute a viable alternative for the final PRIIP risk measure. We would like to recall that SRRI is not a proprietary method, can be implemented by all companies, and has already been tested as implemented on a pan-European scale. Since we do not start from a blank page and that the SRRI has an incontestable number of technical qualities, we strongly believe that any evolution of the current measure or any other alternative measure would have to bear a certain number of very convincing attributes in addition of those already filled in by the SRRI such as simplicity but technically viable and meaningful, robust, scalable, permanency of the results, cost of implementation, pan-European solution, non-proprietary, meaningful in terms of risk taken and expected return...

Credit risk
Credit risk for AIFs and UCITS is two-fold: spread volatility and default risk.
Spread volatility: For UCITS and AIFs, the underlying credit risk linked to spread volatility is already taken into account in the market risk indicator.
Default risk: If the managing company fails, investors' assets are safe with the depository. If the issuer of an invested position fails, the diversification rules are in place to minimize the impact at the portfolio level. Consequently, default risk is fundamentally limited in UCITS and AIFs.
As a consequence, AFG thinks it would be useful to qualify the credit risk as the risk of default of the issuer of the product.

Liquidity

AFG believes that liquidity is an important piece of information for investors to have. Nevertheless, the liquidity concept is tricky to grasp, because it depends on the investor's investment horizon, i.e. not all investors/investment strategies have the same tolerance to the liquidity risk, depending on their time horizon. Furthermore, we believe that liquidity is not a risk when it fits the investor's needs. Thus, to be most effective with this section, we recommend a narrative form about the liquidity level of the product. As a consequence, we recommend talking about "liquidity level" or "liquidity horizon" rather than "liquidity risk".

From a fund perspective, the terminology used in this Discussion Paper differs considerably from the notion of market described in the fund prospectus in accordance with the UCITS Directive. We are concerned that the Level-2 measures should lead to contradicting information being disclosed in the UCITS prospectus and the PRIIPs KID that would create issues in terms of coherence and liabilities, and therefore confusion for investors.

3.4 Measuring risks [p. 27]

4: Do you have a view on the most appropriate measure(s) or combinations of these to be used to evaluate each type of risk? Do you consider some risk measures not appropriate in the PRIIPs context? Why? Please take into account access to data.

Regarding the market risk, AFG strongly advocates for the continuum. SRRI current methods should continue to be in use for funds. Volatility based measures are appropriate and have already proved their worth with the UCITS SRRI applied currently to both UCITS and a vast majority of AIFs in France. Indeed, the SRRI method offers the following advantages:

- It is easy to understand as it is based on the concept of volatility.
- It is stable (the rules have dealt with the issue of calculation change from one week to another)
- It covers a vast majority of cases with one single method, including specific fund types such as formula funds, total return funds, absolute return funds…

Regarding the credit risk, AFG believes that the difference should be clear between a well-diversified exposure and a highly concentrated or even mono-issuer risk. Average rating cannot thus be the only metric used. CDS approach is not appropriate as it is volatile and depends more on market conditions than on credit quality.
Similarly, credit value at risk is not appropriate since it is linked to market conditions and volatile. Furthermore, it is not predictive (cf Greek crisis) and is strongly model-dependent.
Credit risk for AIFs and UCITS is two-fold: spread volatility and default risk.
As a consequence, AFG thinks it would be useful to qualify the credit risk as the risk of default of the issuer of the product.

Lastly, we propose to replace the notion of "liquidity risk" by "liquidity level", as the liquidity is to be assessed in relation to the investor's own time horizon. The liquidity level is best described in terms of suitability with the client's investment horizon. When it comes to earlier redemptions, the liquidity level is answered in the question "Can I get my money back at any moment?"

3.5 Aggregation of risk [p. 29]

5: How do you think market, credit and liquidity risk could be integrated? If you believe they cannot be integrated, what should be shown on each in the KID?

Considering that risks are different from a product to another (insurance contracts, derivatives, structured products, funds…have their own risk factors), we recommend that market, credit and liquidity risks are not integrated into a single risk indicator. Such an approach would unnecessarily expose retail clients to oversimplified risk aggregation that will provide too general information and will not allow them to compare the different risk profiles characteristic of different PRIIPs types.

The KID should show:

- A market risk indicator that also takes into account daily volatility of credit spreads
- A narrative qualifying the default risk. That narrative should mention the diversification or concentration of the credit exposure as well as the average quality
- A liquidity level

3.6 Performance scenarios [p. 30]

3.6.1 General approach and methodology [p. 31]

6: Do you think that performance scenarios should include or be based on probabilistic modelling, or instead show possible outcomes relevant for the payouts feasible under the PRIIP but without any implications as to their likelihood?

AFG Members think that past performances should be used and are against performance scenarios.

Should the ESAs want to maintain performance scenarios, AFG members are in favour of a limited number and non-probabilistic performance scenarios, but against regulatory and prescribed scenarios; the latter would make investors believe that returns are similar and that only costs differentiate a product from another. Three scenarios, as it is the case currently for structured UCITS, would be recommended so as to have a good compromise between enough information and too much and thus less easily readable information.

Combining notions of forecast performance with risk appraisal (probabilistic view) is very complex and may lead to misleading presentations as based on assumptions that retail cannot grasp. As ESMA's working paper on "Real-world and risk-neutral probabilities in the regulation on the transparency of structured products" is suggesting there are economic issues such as the fact that "the risk-neutrality hypothesis is acceptable for pricing, but not to forecast the future value of an asset" and that a "risk premium (so-called "real-world" probabilities)" needs to be factored in.

7: How would you ensure a consistent approach across both firms and products were a modelling approach to be adopted?

A distinction between close-ended structured product and open-ended products could make sense as applied in the UCITS KIID. Performance scenarios with hypothetical situations would only be provided for PRIIPs similar to structured funds (illustrating the mechanism of the formula) while historical performance would be provided for PRIIPs similar to open ended funds.

3.6.2 Time frame and holding period [p. 32]

8: What time frames do you think would be appropriate for the performance scenarios?

AFG members strongly recommend retaining the PRIIP's recommended time horizon.

3.6.3 Other aspects of performance to be considered [p. 33]

9: Do you think that performance scenarios should include absolute figures, monetary amounts or percentages or a combination of these?

AFG members definitely recommend percentage based scenarios, as it is much easier for the investor to apply the percentage to his investment amount. There is a longstanding market practice to present performance in percentage, as this is the case for all products, even the simplest savings schemes such as Livret A, etc.

10: Are you aware of any practical issues that might arise with performance scenarios presented net of costs?

No.

11: Do you have any preferences in terms of the number or range of scenarios presented? Please explain.

When scenarios are relevant (see Q.7), i.e. for structured products, AFG members usually recommend 3 scenarios for reasons of efficiency, readability and space left in the PRIIP KID. For other products, we think that past performances should be used.

3.7 Options for presentation [p. 35]

12: Do you have any views, positive or negative, on the different examples for presentation of a summary risk indicator? Please outline advantages and disadvantages, and provide any other examples that you are aware of that you think would be useful.

AFG members prefer clearly the current SRRI presentation in page 37 because it permits to show that regarding the market risk, the performance is directly related to the risk taken. A 7 grade risk for the market risk has now been rather successfully "tested" with the UCITS SRRI.

The credit risk may be added on the format of a narrative. That narrative should mention the diversification or concentration of the credit exposure as well as the average quality (see Q.3, 4 and 5)

AFG members would not recommend the Dutch leaflet presentation that does not take into account that risk means also more performance and bears too much a negative "image" of the investing action. The same with the p. 38 presentation looking like a car speedometer.
The Portuguese example seems difficult to read and putting emphasis on negative aspects (with no link to the expected performance).

The Belgian risk label is clearly an incentive to buy low risk products as the "washing machine" type of image indicates that low risk is a top quality product. We would like to remind that investing is an active action of supplying/allocation of capital with the expectation of a financial return and that long term investing is an objective of our societies today.
We thus cannot promote visual indicators that may be misleading in terms of the global perception of the consequence an investor may expect from his action of investing.

3.7.2 Abstract presentations of performance [p. 40]

13: Do you have any views, positive or negative, on the different examples for presentation of performance scenarios? Please outline advantages and disadvantages, and provide any other examples that you are aware of that you think would be useful.

Although past performance per se is not a feature of the KID (as compared to the UCITS KIID), it should nonetheless form a basis for the performance scenarios, either through presentation of past performance or used as the starting point for the calculation of the performance figures. We note that this approach was tested and approved by consumers during the UCITS KIID consultation process and has been used since 2012. It is a recognized and meaningful visual illustration of product performance for investors.

3.7.3 Combinations [p. 44]

14: Do you have any views on possible combinations of a summary risk indicator with performance scenarios?

AFG members see no value in combining the performance scenarios with the summary risk indicator, which is not required by the Level-1 Regulation. We agree with the importance of consumers understanding that risk and reward are linked, but we believe that such a construct would only add confusion about two integral parts of the KID and would be better placed in each of its proper KID sections.

4 What are the costs?

4.3 Key Questions

15: Do you agree with the description of the consumer´s perspective on costs expressed in the Key Questions?

4.4.1 Examples of observed cost structures

16: What are the main challenges you see in achieving a level-playing field in cost disclosures, and how would you address them?

In MIFID II level 2, ESMA has given the EC some technical advices on cost disclosures and consumer types but with wordings and definitions different from PRIIPs; this could lead to problems for professionals in implementing the European regulation as well as for a retail consumer to find its way. We recommend that MIFID II and PRIIPs are linked and coordinated on these two topics.

That is also the reason why we strongly advocate that we rely as much as possible on the former work that has been done on the UCITS/KIID; discussions and testing have been performed several years in order to reach satisfying solutions on costs disclosure. A lot of technical issues faced today by the ESAs have been studied and solved within the UCITS/KIID discussions. We recommend taking this work into consideration and making the PRIIPs /KID very similar to UCITS/KIID.

17: Do you agree with the outline of the main features of the cost structures for insurance-based investment products, structured products, CfDs and derivatives? Please describe any other costs or charges that should be included.

On REITS, "real estate operating expenses and capital expenditures" should be taken into account separately from the on-going charges as it is the case in the French REITs UCITs funds.

18: Do you have any views on how implicit costs, for instance costs embedded within the price of a structured product, might be best estimated or calculated?

Structured products issued by banking departments and those issued by asset managers must have the same treatment.

19: Do you agree with the costs and charges to be disclosed to investors as listed in table 12? If not please state your reasons, including describing any other cost or charges that should be included and the method of calculation.

- **Transaction costs**, when “included in the spread” and bid-ask spreads, are not measurable. Market spreads are a result of the combination of different factors such as market conditions and marketing fees. Asset managers have no means today to identify the part corresponding to a transaction cost.
- **Market impact cost** is a notion too vague to be measured. No asset managers, nor brokers, are able to measure it according to our inquiry.

4.4.2 Aggregating Costs

20: Do you agree that a RIY or similar calculation method might be used for preparing ‘total aggregate cost’ figures?

Showing a RIY (reduction in yield) needs a yield assumption that could be misleading but in the same time it gives the right idea that costs are meant to generate return.

See our answer below Q.22

21: Are you aware of any other calculation methodologies for costs that should be considered by the ESAs?

22: Do you agree that implicit or explicit growth rates should be assumed for the purpose of estimating ‘total aggregate costs’? How might these be set, and should these assumptions be adjusted so as to be consistent with information included on the performance scenarios?

1. We don’t think that an implicit or explicit growth rate is absolutely necessary; as an example, the table shown in option 5 page 68 doesn’t show any growth rate and still remains quite effective on a cost disclosure perspective.
2. We don’t think either that if an implicit or explicit growth rate were to be used, it has be included in the performance scenarios. The table shown in option 6 page 69 uses a theoretical growth rate and still remains quite effective on a cost disclosure perspective.
   Besides using several performance scenarios in the cumulated cost effect disclosure leads to a long table of possibilities as displayed in option 8 and 9 on pages 70-71, difficult to read for a retail consumer (if he reads it at all).
3. A solution could be to show the RIY on the optimistic performance scenario
4. A solution could be to show costs (and cumulated costs) without any growth rate or with the minimum growth rate needed to offset the costs (see illustration Q.26)

23: How do you think implicit portfolio transaction costs should be taken into account, bearing in mind also possible methods for assessing implicit costs for structured products?

4.4.3 Parameters and assumptions

24: Do you have any views on possible assumptions that should be made, and how these might be calibrated or set?

Ex-ante and ex-post: past actual costs should be used whenever it is possible; when past costs reflect exceptional market conditions and do not give a reasonable indication for the future, it should be possible to give an estimated cost for the following year as ruled by the regulation on UCITS No 583/2010:

*Article 24 (*UCITS No 583/2010)
Material changes to the charging structure

...Where the 'ongoing charges' calculated in accordance with Article 10(2)(b) are no longer reliable, the management company shall instead estimate a figure for 'ongoing charges' that it believes on reasonable grounds to be indicative of the amount likely to be charged to the UCITS in future.
This change of basis shall be disclosed through the following statement:
'The ongoing charges figure shown here is an estimate of the charges."

Holding periods: we support different holding periods, 1 yr., 3 yrs., 5 yrs., 10 yrs. and the recommended time horizon.

Rates of return: (see Q.22)

4.5 Presentation of cost disclosure in the KID

4.5.1 Options for presenting costs

25: What do you think are the key challenges in standardising the format of cost information across different PRIIPs, e.g. funds, derivatives, life insurance contracts?

The challenges lies in the fact that the fees are not charged at the same time and with the same methods.

More precisely, some products take large upfront fees and then have regular and foreseeable on-going fees. But when it comes to actively managed products such as investment funds, some costs cannot be calculated on an ex-ante basis (typically performance fees and transactions costs).

Transaction costs are a very small part in the total costs; as an example, for a European equity portfolio, transaction costs would be circa 0.10% of the portfolio value on average.
Transaction costs on other financial instruments (derivatives, bonds, forex…) are included in the price and are directly reflected into the performances.
As for performance costs, there should only be a narrative explaining the calculation method.

Lastly, French REITs have specifics in their KIIDs, i.e. costs are presented in % of both net value and gross value. And as mentioned in Q.17, French REITs UCITs funds include "real estate operating expenses and capital expenditures" that are disclosed separately from the on-going charges.
The same differences and presentation should be maintained for PRIIPs/REITs.

26: Do you have a marked preference or any objection for any of the presentational examples? If so, why? Please provide any alternative examples which you believe could be useful.

Some members think option 6 is the best option in terms of simplicity and fairness for the consumer. Besides, using one single rate of return for all products, it clearly shows the difference between products in terms of costs. But, in the same time, it would make investors believe that returns are similar between products and that only costs differentiate a product from another.

Other members are not comfortable with the 5% rate shown in option 6 and can't figure out what other single growth could fit. They would favour option 5.

Other members point out that option 5 only shows one holding period and as a consequence it doesn't display the cumulated costs on the first years (crucial for insurance-based products).

We would suggest a model combining option 5 and 6 while matching the level-1 requirement (see below).

Holding periods	Investment €	Cumulated Total costs €	Annualized rate of total costs
1	*1000*	*7,5*	*0,75%*
3	*1000*	*17,5*	*0,58%*
5	*1000*	*27,5*	*0,55%*
10	*1000*	*52,5*	*0,53%*
7*	***1000***	***37,75***	***0,54%***

Entry-fees: 0.25%   On-going fees: 0.50%   Exit-fees: 0.25%

**Recommended time horizon*

The table intends to show the cumulated costs in Euro (column 3) at each time horizon (column 1) together with the equivalent expressed as an annualized rate over the period. (e.g. at end of year 5, the cumulated cost from year 1 is 27.5€ and 27.5€ represents a cost of 0.55% per year over 5 years).Only the recommended time horizon in the last line (year 7) includes the exit-fee, while year 1 bears the entry-fee.

27: In terms of a possible breakdown of costs, are you aware of cost structures for which a split between entry or exit costs, ongoing costs, and costs only paid in specific situations or under specific conditions, would not work?

French REITs funds usually have specific costs, "operating expenses and capital expenditures", that are shown separately from the on-going charges.

28: How do you think contingent costs should be addressed when showing total aggregated costs?

For actively managed products, contingent costs could only be included on an ex-post basis.
If disclosed on an ex-ante basis, they would need a special disclaimer warning that they are only estimated and do not constitute a legal commitment.

29: How do you think should cumulative costs be shown?

See Q.26

5 Other Sections of the KID [p. 73]

5.2 Identity – Article 8(3)(a) [p. 73]

30: Do you have any views on the identity information that should be included?

In our view, the following information should be included:

- Where it exists, a product identification code (e.g. ISIN) and as for funds, the identification code of the respective share class
- Name and website of the PRIIP manufacturer
- Adding the address etc. of the product manufacturer would only cater for a small minority of retail investors who may not have access to the internet. Therefore, we agree with just putting the name and website of PRIIP manufacturer on the face of the KID
- Name of the competent authority that has registered the product
- Name of the custodian

5.3 Comprehension Alert [p. 74]

31: Do you consider that the criteria set out in recital 18 are sufficiently clear, or would you see some merit in ESAs clarifying them further?

We consider the current Recital 18 to be too widely drawn and therefore generally welcome the ESAs' initial suggestions on how to better capture what PRIIPs should be excluded from the comprehension alert.

5.4 What is this product? [p. 76]

5.4.2.1 Type of PRIIP [p. 77]

32: Do you agree that principles on how a PRIIP might be assigned a 'type' will be needed, and do you have views on how these might be set?

Considering that PRIIPs cover a wide and diversified range of products, the KID/PRIIPs should be assigned a 'type' based on the underlying regulatory types. These are (i) UCITS or AIF (open-ended or closed-ended), (ii) insurances (unit-linked or with profit), (iii) structured bonds, (iv) structured deposits and (v) derivatives (as defined on page 13 of the Discussion Paper).

A special mention should indicate that the product is certificated by a local regulatory, and as such must complies with Directive 2009/65/EC (UCITS) or local legislation (AIF) (possibility of redemption at any time, ……..)

33: Are you aware of classifications other than by legal type that you think should be considered?

As for funds:

- Product primarily invested in financial instruments
- Product primarily invested in real estate
- Product primarily invested in other instruments

5.4.2.2 Objectives and means of achieving them [p. 76]

34: Do you agree that general principles and as necessary prescribed statements might be needed for completing this section of the KID?

Should the ESAs consider common principles or further guidance for those products, it is in our view crucial to use and refer to existing standards such as:

- Objective of investment
- Recommended time horizon
- Investments universe
- Benchmark if relevant

The content of the section "Objectives and investment policy » of the UCITS KIID seems well suited (art 7 regulation 583/2010)

35: Are you aware of other measures that might be taken to improve the quality of the section from the perspective of the retail investor?

Unfortunately, the PRIIPs Regulation does not refer to the known constituents of ESG: Environmental, Social and Governance. The G for Governance is essential to ESG strategy, because if a shareholder has no relevant rights vis-à-vis the management of a corporation, it cannot effectively engage in a dialogue with the management and hence may not be in the position to improve social or environmental issues the corporation might have. We believe that it should be possible for PRIIPs manufactures to include in the description also governance criteria where applicable. This would also improve the quality of the information for the retail investor who would then be able to evaluate the product with respect to the complete criteria.

5.4.2.3 Consumer types [p. 89]

36: Do you have views on the information PRIIPs manufacturers should provide on consumer types?

We insist the consumer type must stay sufficiently high level for product manufacturers to be consistent with the requirement of the "identified target market" in MiFID II and not to preclude a necessary suitability and appropriateness test being conducted during the investment advice.

5.4.2.4 Insurance benefits [p. 80]

37: What is the key information that needs to be given to the retail investor on insurance benefits, and how should this be presented?

N/A

5.4.2.5 Term [p. 81]

38: Are you aware of PRIIPs where the term may not be readily described, or where there are other issues?

Typically, UCITs don't have fixed terms.
When they do, standard sentences should be specified for fixed length or open ended funds. If necessary, the conditions for an anticipated term could be specified or it could only be mentioned that an anticipated term is possible (e.g. open ended funds that can become closed ended).

We would, however, like to point out that besides a fixed length or open-ended term, some products have a fixed term that might be extended. This applies for example to ELTIFs, the manager is required to define a term but may also define conditions which allow him to extend the term[2]. Any rules regarding description of a term should take this into account.

5.5 What happens if [the name of the PRIIP manufacturer] is unable to pay out? [p. 81]

39: Are you aware of specific challenges arising for specific PRIIPs in completing this section?

We are not aware of specific challenges in this respect. However, there are PRIIPs where a bankruptcy of the manufacturer is irrelevant because the investment is insolvency-remote, e.g. funds with separate depositary arrangements are effectively ring-fenced from the financial position of the PRIIP manufacturer, so the question of whether the PRIIP manufacturer is able to pay out is not relevant.

[2] See Regulation on European Long-term Investment Funds.

5.6 How long should I hold it and can I take money out early? [p. 82]

40: Are you aware of specific challenges arising for specific PRIIPs in completing this section?

5.7 How can I complain? [p. 83]

41: Are you aware of specific challenges arising for specific PRIIPs in completing this section?

In itself the information presented in this section needs to be generic in nature, otherwise manufacturers might need to create different KIDs for the same PRIIP in order to address different distribution channels and jurisdictions, which would be contrary to the concept of a single KID per PRIIP.
This could be accomplished by including a reference to where further information (i.e. website) may be found. In general, the information requirements within this section should be coherent with the ESAs guidelines' for complaints-handling, where covered firms are required to publish details of their complaints-handling process in an easily accessible manner.

5.8 Other relevant information [p. 84]

42: Do you agree that this section should link to a webpage of the manufacturer?

Generally, we agree with the publication of additional information on the manufacturer's website.

6 Products offering many options [p. 85]

43: Do you agree with the assessment of when PRIIPs might be concerned by article 6(3)?

We agree and consider that a generic description of the underlying investment options could be necessary for the underlying investment options in funds, for example, for a unit-linked insurance contract. However, the detailed information on underlying funds should be provided through UCITS/KIIDs.

6.3 Scale of market [p. 86]

44: In your market, taking into account the list of criteria in the above section, what products would be concerned by article 6(2a)? What market share do these represent?

Unit-linked insurance contracts offering several underlying investment funds would be concerned by article 6 (2a).
They represent around 10% of retail financial holdings.

45: Please provide sufficient information about these products to illustrate why they would be concerned?

6.4 Impact of article 6(3) [p. 86]

46: Do you have views on how you think the KID should be adapted for article 6(3) products, taking into account the options outlined by the ESAs?

We would recommend the use of ranges for the risk/reward information and the cost data.

47: How do you consider that the product manufacturer should meet the requirements to describe and detail the investment options available?

48: Are you aware of further challenges that should be taken into account?

7 Review, Revision and Republication [p.89]

49: Do you agree with the measures outlined for periodic review, revision and republication of the KID where 'material' changes are found?

The UCITS KII Regulation should be used as a guide for developing these measures. It is important to remember that the KID is intended as pre-contractual information and any attempt to extend this to inform existing investors of any changes (other than through a broadcast or passive model) would create serious complications (including overlapping existing periodic disclosure requirements) and should thus be avoided at all costs.

Any requirement for the PRIIPs manufacturer to inform the investor of changes beyond a publication of the revised KID e.g. on a website would lead to significant practical issues and a regulatory overlap.

An annual revision would be sufficient in our opinion.

Further clarifications on the meaning of material changes would be appreciated in this regard, as these which will trigger the need for a revision of the KID.

50: Where a PRIIP is being sold or traded on a secondary market, do you foresee particular challenges in keeping the KID up-to-date?

The UCITS KIID regulation should be the starting point and should be adapted to cover PRIIP potential specificities. In particular, the RTS should be specific as to what is to be considered as a material change.

51: Where a PRIIP is offering a wide range of investment options, do you foresee any particular challenges in keeping the KID up-to-date?

The UCITS KIID regulation should be the starting point and should be adapted to cover PRIIP potential specificities. In particular, the RTS should be specific as to what is to be considered as a material change.

52: Are there circumstances where an active communication model should be provided?

Like in cases of the UCITS KID, the publication of the revised KID on the manufacturer's website ("passive communication") should be sufficient. There should be no duty to actively communicate modifications of a PRIIPs KID to the existing investors.

8 Timing of delivery [p. 93]

53: Do you agree that Recital 83 of the MiFID II might be used as a model for technical standards on the timing of the delivery of the KID?

While we agree that the technical standards should address the issue of retail investors being given the time they need to consider the KID before making any decision, it is an equally important investor protection concern that they should not be prevented from investing at the point they want to because of constraints imposed by overly prescriptive regulation.

We would consider these technical standards to be in line with the Distance Marketing Directive and MiFID II.

54: Are you aware of any other criteria or details that might be taken into account?

9 General aspects of the KID [p. 97]

9.2 Use of templates to establish consistent 'look and feel' or visual style [p. 97]

55: Do you think that the ESAs should aim to develop one or more overall templates for the KID?

The KIID template published by CESR (CESR/10-1321) has helped consumers by making sure all KIIDs are similar in format and it has helped firms by clearly indicating how to construct a compliant document.

A similar approach for the KID would be most welcome that should take into account the experiences of the past four years since the publication of these CESR guidelines. Otherwise there is a high risk of having to comply with multiple templates for products distributed on a cross border basis, which reduces competition by increasing barriers to entry while being a source of confusion for both investors and manufacturers.

9.3 Single payment and regular payment products [p. 98]

56: Do you think the KID should be adjusted to reflect the impact of regular payment options (on costs, performance, risk) where these are offered? If so, how?

As the KID is designed to be a generic disclosure document, multiple versions reflecting different payment options should be avoided, as such multiplication will just make it harder for the retail investor to locate the right version. One solution would be to produce the KID for any PRIIP on the basis of single payment in/single payment out, unless that payment option is not available in the specific PRIIP concerned, in which case the KID should reflect the reality of the payment profile.

10 Impact assessment [p. 101]

57: Are there other cost or benefit drivers that you are aware of that have not been mentioned? Please consider both one-off and ongoing costs.

58: Do you have any evidence on the specific costs or benefits that might be linked to the options already explored earlier in this Discussion Paper? Please provide specific information or references broken down by the specific options on which you wish to comment.

59: Are you aware of situations in which costs might be disproportionate for particular options, for instance borne by a specific group of manufacturers to a far greater degree in terms relative to the turnover of that group of manufacturers, compared to other manufacturers?