

**Comments Template for Joint Consultation Paper concerning amendments to the PRIIPs KID (JC 2018 60)**

**Deadline  
6 December 2018  
23:55 CET**

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| Name of Company:   | Actuarial Association of Europe (AAE)  |        |
| Disclosure of comments:  | Please indicate if your comments should be treated as confidential:  | Public |
| <p>Please follow the following instructions for filling in the template:</p> <ul style="list-style-type: none"> <li>⇒ Do <b>not</b> change the numbering in the column "reference"; if you change numbering, your comment cannot be processed by our IT tool</li> <li>⇒ Leave the last column <u>empty</u>.</li> <li>⇒ Please fill in your comment in the relevant row. If you have <u>no comment</u> on a question or a cell, leave the row <u>empty</u>.</li> <li>⇒ Our IT tool does not allow processing of comments which do not refer to the specific numbers below.</li> </ul> <p><b>Please send the completed template, in Word Format, to <a href="mailto:CP-18-005@eiopa.europa.eu">CP-18-005@eiopa.europa.eu</a></b></p> <p><b>Our IT tool does not allow processing of any other formats.</b></p> |  |        |
| <b>Reference</b>   | <b>Comment</b>   |        |
| General Comments   | <p><b>Preliminary remark</b><br/>                     The views expressed below by the AAE are mainly based on principles and the AAE's Full Member Associations may express more detailed views according to the specificities of their national markets.<br/>                     The AAE welcomes the confirmation that a more fundamental revision of the PRIIPs regulations should be planned. It agrees that the regulations have raised important challenges that have been shared within the AAE's Consumer Protection Working Group, particularly with regard to performance scenarios. Nevertheless, the AAE does not believe that finding quick fix is the best way to proceed. The quick fix approach does not make it possible to solve the structural problems arising from the methodological principle adopted</p> |        |

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by this Regulation. They will represent an additional burden for the industry with little benefit for consumers.  
Therefore, the opinions expressed in the response to the following consultation must be interpreted with the reservation that, in the opinion of the AAE, any change should be deferred until a satisfactory framework has been designed to support a complete, more fundamental and one-off review of the Regulation.  
We note also that the consultation does not deal with issues in relation to industry views on transaction costs. These issues should also be considered in the more fundamental revision of the regulations.

The AAE shares the view expressed by the ESAs in their letter of 1 October 2018, which warns against adopting an approach whereby retail investors will receive both the key PRIIP information documents (hereinafter referred to as PRIIPs KID) and those of UCITS. From this perspective, the AAE observes that extending the KIID exemption would be in line with the search for a more satisfactory framework for the review of the PRIIPs.

Q1

**Do you agree that information on past performance should be included in the KID where it is available?**

In accordance with our preliminary remark, the introduction of past performance figures in the current state of the Regulation would be counterproductive and should only be considered as part of a more fundamental revision of the PRIIPs Regulation. It should be noted that the duplication of figures between past and forecast performance does not promote a good understanding by the consumer. In addition, since prospective performance is based on past performance, additional disclosure of past performance will generally not mitigate existing figures but will reinforce a perception that can be misleading, especially when the figures provided are too optimistic.  
More generally, there is also evidence that consumers often misunderstand past performance, e.g. over-extrapolate, overestimate future return of an investment product,

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based on past performance, underestimate uncertainty and choose products that are too risky. Such an approach must generally be surrounded by specific explanations, namely about how the environment influenced the observed results.

In this respect, the current method, because it is also based on past performance, has even more worrying disadvantages because it is less objective (for example negative future performances make no sense) and because the consumer cannot understand the projection method used and is even more exposed to the biases mentioned above. In both cases, past performance based methods strengthen the client behavior to buy at the peak and hardly buy, rather sell at the bottom of the market. This pro-cyclicality may be very detrimental for the consumer.

According to the views expressed by AAE members, the introduction of past performance figures in the KID PRIIPs is clearly not compatible with the consultation framework. The great diversity of insurance products, both within and between countries, will make it very difficult to find an appropriate definition, if any, as many IBIPs do not have market values and the insertion within a concise document of both past performances and forward-looking simulated performances will create a danger of “information overload” for customers make it more difficult to understand for the them and will create a practical challenge to keep within the 3-page limit.

Q2

**Question 2**  
**Are there challenges to include past performance information for certain types of PRIIPs?**

Whereas some products could find a relatively easy solution, others, with an important market share in several European markets, will require a substantive work to solve many issues regarding the meaning of the figures. Those figures may depend of the premium structure, the biometric component, the age of the policy holder or the holding period. Any work about on a solution particularly with regard to participation products should reasonably take place in a less constraint timeframe. AAE is willing to contribute to such a

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|           | <p>work. More generally, , due to the heterogeneity of products and situations, it may be anticipated that it will be quite difficult to find a definition that will match for all the countries and that dedicated solutions may have to be found according to the type of product, as it may already be the case within the UCITs frame for structured products.</p>  |  |
| <p>Q3</p> | <p><b>Do you agree that it is appropriate for this information on past performance to be based on the approach currently used in the KII? If not, please explain your reasons and if an alternative presentation would be more appropriate and for which types of PRIIPs?</b></p> <p>Consistently with Question 2, the KIID approach will generally prove to be unsuited since many insurance products are not market traded and do not show a NAV as in the UCIT definition.</p>   |  |
| <p>Q4</p> | <p><b>Do you think that information on simulated past performance should be included in the KID where actual past performance is not available? If not, please explain your reasons.</b></p> <p>The use of simulated past performance requires that a satisfactory framework for calculating actual past performance has been built. Even if this prerequisite were met, past performance simulations should not be used. It is of crucial importance for consumer protection to present understandable and reliable figures. Simulations may lack objectivity because of the need to rely on assumptions; the effect of these assumptions and the approximations to be used will not be understandable to the consumer; between products, actual past performance will have to be compared to simulated past performance, which could be misleading, especially because the consumer may not be sensitive to these differences; if simulated past performance is required or allowed, it could introduce a bias in the design of the product that could be misleading or even dangerous.</p> |  |

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| Q5 | <p><b>If you think that information on simulated past performance should be included in the KID, what approach do you think should be used to simulate the past performance, and how should this be presented in the KID?</b></p> <p>Not applicable, according to Question 4</p>  |  |
| Q6 | <p><b>Do you consider these amendments to the narrative explanations to be an improvement on the current performance scenario approach?</b></p> <p>Subject to the general wish expressed above, that any changes be deferred to a more fundamental revision of the Regulation, the AAE welcomes the addition of a cautionary statement that could somewhat mitigate the misleading nature of the performance scenarios.</p> <p>In a more concrete way:</p> <ul style="list-style-type: none"> <li>- The word "accurately" should be deleted. The models do not allow us to predict the evolution of the market but to compare the possible evolution of the different assets/products.</li> <li>- Disclosure of the duration of the observation is not relevant since it could be misinterpreted by the consumer and should not give the impression that the validity of the approach could improve significantly between two and five years.</li> </ul> <p>It may be too that guidance on the cautionary statement should be address in level 3 where companies would have some flexibility around wording and can tailor it to the specific product/fund in question.</p> |  |
| Q7 | <p><b>Do you have any comments on the analysis set out in this Section of other possible options to improve the future performance scenarios?</b></p>   |  |

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Future performance scenarios anchored in the risk-free rate of return

Using the risk free rate is conceptual and to be reflected on from a consumer point of view who lives and acts in the “real world”. This introduction will lead to identical results for the moderate scenario whichever product is considered except for the effects of costs. Since this scenario is generally understood as the most probable one, consumers will rely only on the others scenarios to discriminate between products and miss the fundamental trade-off between risk and performance.

These major disadvantages should not obscure the equally worrying inconsistencies of the current approach, which undermine the credibility of the prospective performance scenario approach. For example, under the current approach, the existence of moderate scenarios with negative performance makes no sense since in any market; the price of an asset would fall until stakeholders anticipate future performance consistent with their performance requirements.

Limiting the presentation to two future performance scenarios by only including the favorable and stress scenarios in the future performance scenarios

It should be noted that in some cases (when the moderate scenario has negative returns), the adverse scenario may be worse than the stress scenario.

The AAE considers that the graphic presentation is more misleading than the current grid, as it would lead consumers to believe that the product's performance will remain limited by these two scenarios. In order to avoid such an understanding, any reference to "possible" results should be removed from the grid. The statements such as "only 5% of the simulated returns were lower" seem useful for understanding the table.

Any introduction of graphical representation should be done after consumer testing to understand if it improves understanding for customers.

Extend the historical period

This extension might slightly improve the relevance of figures in some cases, but many market cycles are longer than 10 years and such a change would not solve the problem

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|    | since the methodology is fundamentally not good.  |  |
| Q8 | <p><b>Do you have any views on how the presentation of the performance scenarios could otherwise be improved?</b></p> <p>AAE has no particular suggestion – see preliminary remark about the need to avoid partial and premature changes to the regulation.</p>   |  |
| Q9 | <p><b>Do you agree with the proposals described in this section?</b></p> <p><u>Market risk measure (MRM) calculation for regular investment or premium PRIIPs</u><br/>The AAE confirms that the current methodology does not take into account regular product premiums and that for markets facing these issues clarification would be welcome. Nevertheless, it seems that solutions have already been implemented to compensate for the lack of regulatory requirements on this point. With regard to the proposal, the methodology should be more precisely explained so that technical advice can be given.</p> <p><u>Products with an autocallable feature</u><br/>The proposal leads to the fact that some cells of the table, depending on the performance scenarios, remain empty. This would have probably a positive effect to help the consumer understand how the product works and make her aware of its autocallable feature. It should reduce the latitude for the issuer to deal with the period after the end of the product.</p> <p><u>Growth assumption for the reduction in yield (RIY) calculation</u><br/>This assumption exists already in the RTS. Its extension will disconnect the RIY from the relevant performance scenario. This becomes especially visible in the Euro-sums. If the performance scenarios and the costs calculation are done with different returns there will</p> |  |

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|     | <p>be a huge inconsistency between the Euro-sums shown due to the compound effects. On the other hand, it may allow a better comparability between products and prevent from obtaining gigantic amount of costs for products with a very long RHP and high yield. More generally, the use of predefined parameters defined by regulation has advantages with regard to comparability, reliability and understandability of the results.</p>   |  |
| Q10 | <p><b>Do you have any comments on the proposed approaches in relation to the analysis and proposals in this section?</b></p> <p>The AAE does not comment on the amendments resulting from the possible removal of the exemption provided for in Article 32 of the PRIIPs Regulation since its main recommendation is to extend the exemption. As indicated in the consultation document, as a general rule, the AAE considers it preferable to consider the inclusion of any new UCITS regulatory requirements in the delegated PRIIPs regulations only when a broader review is carried out and a more comprehensive assessment of their applicability to other types of PRIIPs can be undertaken.</p> |  |
| Q11 | <p><b>Do you have any comments on the preliminary assessment of costs of benefits?</b></p>  |  |
| Q12 | <p><b>Are you able to provide information on the costs of including information on past performance for different types of PRIIPs?</b></p>  |  |
| Q13 | <p><b>Are there significant benefits or costs you are aware of that have not been addressed?</b></p>  |  |

