

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

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

Name of Company:	French Insurance Federation (FFA)	
Disclosure of comments:	Please indicate if your comments should be treated as confidential:	Public
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Reference	Comment	
General Comments	<p>FFA welcomes the opportunity to comment on the proposed changes to the RTS. However, we have serious concerns with the 'quick-fix' approach taken in the current consultation. It is vital that any new measures address the underlying problems with the PRIIPs KID and do not attempt to find superficial and ineffective solutions to these fundamental problems. FFA request that the fundamental changes required to address the issues with performance scenarios are only considered as part of the formal review. Such amendments are central to the objective of the Regulation and as such require thorough impact assessment and proper consumer testing. As the PRIIPs Regulation has only been in force less than a year, we feel the ESAs need to conduct a more well-considered and better evidenced approach when proposing amendments which could lead to deterioration of information provided to consumers. It needs to be evidenced that the</p>	

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consumer will benefit from such proposals, in order to justify the significant systems changes and compliance costs for industry.

It is clear that the proposed solutions for performance scenarios set out in this consultation are only an interim measure and that the performance scenarios will need to be fully revised as part of the Article 33 review of the PRIIPs Regulation (“formal PRIIPs review”).

An interim measure which would incur additional compliance cost without achieving any added value for consumers is an entirely unsatisfactory approach to the issues at hand. There is minimal value to consumers in repeatedly changing the presentation of the PRIIPs KID. This would increase confusion and also risks devaluing the KID as repeated changes will cause consumers to question the value of the information presented to them. The proposed changes to the RTS would mean insurers face significant costs in altering PRIIPs KIDs by 2020 and will face costs again implementing changes that result from the PRIIPs review. It is also not clear how the review could fully consider the impact of any interim changes, as these would have only just been implemented when work on the review began.

We understand that the ESAs have been restricted in the ambition of the solutions proposed in the consultation as the potential end of the UCITS exemption in 2019 would mean that any changes to the RTS should be adopted by the European Parliament by March 2019 . As an end to the UCITS exemption looks increasingly unlikely, as suggested by Vice-President Valdis Dombrovskis during the exchange of views before the Committee on Economic and Monetary Affairs of the European Parliament on 29 November 2018, there seems to be no reason to rush-through these measures. If a satisfactory long-term solution to problems with the performance scenarios cannot be found within this timeframe it is better that these issues are dealt with as part of the formal PRIIPs review. To do otherwise would undermine the objective of the regulation to provide consumers with information that is accurate, fair, clear and not misleading.

Finally, we would like to make clear that our response only addresses the issues with the RTS raised by the ESAs in the consultation. The short period of time does not enable us to comment on additional issues with the RTS. Therefore, we urge the ESAs to conduct another consultation

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	before the overall review so that a broader range of issues can be considered.	
Q1	<p>The use of past performance data alongside forward-looking performance scenarios is potentially confusing to consumers and is not a solution to the current problems with the PRIIPs KID. Any problems with the current PRIIPs performance scenarios need to be addressed directly not through quick-fix solutions. The addition of more past performance-based data will not assist consumers in understanding the performance scenarios.</p> <p>If information on past performance is accurate, clear and not misleading, the inclusion of such information on past performance on the same level as forward-looking scenarios would be very misleading and increase confusion for consumers. Indeed, past performance is purely factual while forward-looking scenarios belong to the realm of hypothesis. Moreover, in some cases, past performance data will appear to validate the overall picture presented by the forward-looking scenarios, as where there has been a period of unusually good market performance this is reflected in both measures. This compounds the problems with the current methodology rather than giving consumers a clear indication that the forward-looking methodology cannot be relied upon.</p> <p>The insurance industry is concerned that simply adding more information while not addressing the underlying flaws with the performance scenarios will overload consumers with information. As noted by the ESAs in the costs and benefits analysis, it is also not clear how this will fit with the requirement that PRIIPs KIDs do not exceed 3 pages in length. For some manufacturers it will be almost impossible to add additional information with the 3-page limit.</p>	
Q2	<p>We anticipate problems with providing past performance data for certain insurance-based investment products. These problems are already existing with performance scenarios for these products. For products with guarantees and products with biometric protection such as death cover, the performance of the product is driven by the promised guarantee and biometric performance respectively rather than the market performance of the underlying assets. Although it is possible to simulate past performance data for these products, we find that writing this information is very dangerous and misleading for consumers. We question the utility in providing this information because we do not feel it reflects the overall feature of the product. This data can</p>	

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	<p>also not be used to compare IBIPs with other investment products which do not offer the same features. Including information on past performance in the KID may be helpful for certain product classes but not for others and so a one size fits all approach is not appropriate.</p> <p>For this type of product, performance indicator is not relevant.</p>	
Q3	<p>If past performance is to be used for certain products, there is value in maintaining the same approach as taken in UCITS as this is already familiar to retail investors, and this approach has not been called into question by those currently using it. However, further consideration of this approach would be needed as part of the PRIIPs review as it is not yet clear whether the approach taken in UCITS can be replicated for all products. This is a fundamental issue in the presentation of performance to consumers and should not be addressed without thorough assessment and consumer testing. It is not appropriate to make changes of this nature as part of this expedited consultation.</p>	
Q4	<p>We consider simulated past performance are misleading for consumers and arise technical difficulties. Consumers would never be able to understand what simulated past performance stands for as it would never give clear indications concerning the genuine performances of the product.</p>	
Q5	<p>We consider simulated past performance are misleading for consumers and arise technical difficulties.</p>	
Q6	<p>The proposed revisions to the narrative explanations may be of some value to consumers, but fail to adequately address the fundamental issues with the current performance scenarios.</p> <p>On this basis french insurance industry does not believe the proposed amendments to the RTS would be an improvement on the current performance scenario approach given the fact the fundamental issue- methodology used for calculating the performance scenarios, would remain unamended and proposed narratives do not go far enough in explaining inaccuracies.</p> <p>FFA would be supportive of well-considered, consumer tested changes to the RTS which would offer added value to consumers. However, it would be difficult for insurers to justify significantly increased compliance cost to implement minimal and ineffective changes to level 2 legislative</p>	

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	<p>requirements when it is clear that fundamental issues will remain unchanged. Again we request any changes to the RTS only be made as part of the formal review, we do not believe it will be to the benefit of consumers if KIDs are revised numerous times within a short period of time, as this will only increase confusion.</p>	
<p>Q7</p>	<p>We agree with the ESAs’ assessment that the use of scenarios anchored in the risk-free rate of return would not provide meaningful information to consumers, in particular on longer term products. Risk-free measures are a mathematical tool used to price derivatives. It is an artificial tool since the risk-neutral world is easier for the calculus. However, the values of performance scenarios obtained this way have no meaning in the real world and are, therefore, useless for consumers. For more complex or structured products this methodology would result in very inaccurate projections, since it does not take into account the correlation between risks and rewards.</p> <p>Showing two scenarios could potentially be misleading for consumers. They might think that these are the upper and the lower boundary of a product. Furthermore, the stress scenario uses a different methodology for the calculation. In some cases it lies above other scenarios and could even lie above the optimistic scenario if the product performed badly. In this case the range does not make sense.</p> <p>We also agree with the ESAs assessment that the use of an extended period of past performance as the basis of the forward-looking calculations would result in an unreasonably high compliance burden for minimal gain to consumers. There is no time period which would produce accurate results for all products. We believe the use of past performance data projected into the future is fundamentally flawed regardless of the timeframe used.</p>	
<p>Q8</p>	<p>In addition to the specific amendments proposed by the ESAs, it should also be acknowledged that there are some products currently considered to be in scope of PRIIPs for which the use of performance information (whether forward looking or past performance) will never be a useful indicator to consumers. In particular the presentation of the ‘performance’ of an immediate annuity or a funeral cover product is fundamentally misleading to consumers. These products are not bought as an investment and so presenting suggested returns to consumers is unhelpful. It is</p>	

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	<p>also impossible within the current methodology, or through the use of past performance, to calculate information that accurately captures the biometric features of the product. For these products, biometric cover rather than market performance is the main factor in the value to the consumer.</p> <p>Moreover, funeral cover products should be outside the scope of PRIIPs Regulation because the aim of this type of product is not to make an investment but to cover a biometric risk.</p>	
Q9	<p>We agree that the issues in this section may need to be addressed but would suggest that they are considered more thoroughly as part of the full PRIIPs review.</p> <p>In particular, at this stage it is not clear whether the solution proposed on the market risk measure will be of benefit to consumers. There is a possibility that the suggested amendments might not capture the actual risk of such products, since replacing “VaR_RETURNSPACE” in the formula in Point 13 by “T·r” implies that the entire investment is done at time = 0 and held until time = T which is not always the case. However, it is difficult to assess, as it is not immediately clear how the formula, as proposed by the ESAs, would be applied.</p> <p>There are also potential advantages in use of an extended number of characters to explain the limitations of SRI / the performance fee. However it may in fact be more helpful if the ESAs could indicate a range of different statements to be included in this section, in order to ensure that all manufacturers abide to the same standard. This would need further assessment before deciding on a final approach.</p> <p>Equally, looking at the growth assumption for the RIY calculation, the benefit of the increased horizontal comparability in using a fixed return would need to be balanced against the need to ensure consistency within each KID. A thorough assessment of this would need to be carried out before any changes are made.</p>	
Q10	<p>As an end to the UCITS exemption looks increasingly unlikely, we do not see any need to introduce corresponding changes to the PRIIPs RTS at this time. Provisions regarding UCITS and relevant non-UCITS funds as underlying investment options of a MOP in Articles 12, 13 and 14 of</p>	

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	<p>the PRIIPs Delegated Regulation should remain as they are.</p> <p>However, the extension of the UCITS exemption does necessitate a technical amendment to Article 18 of the PRIIPs RTS. The possibility for insurance companies to produce a generic KID and to provide the information for each of the underlying option through the existing KIIDs must be extended at least until UCITS funds are obliged to apply the PRIIPs Regulation a change of the date in Article 18 of the PRIIPs RTS is urgently needed to ensure the current derogation does not time out in 2019.</p>	
Q11	<p>We welcome the ESAs acknowledgement that any changes to the PRIIPs KID will result in significant costs for PRIIPs manufacturers. These costs will be higher where changes necessitate the gathering of new data or changing internal processes to take into account changes in methodology. However, even cosmetic changes to the KID, including ostensibly simple wording changes, will result in high compliance costs.</p> <p>We disagree with the ESAs assessment that the requirement to review the KID annually means that there are no significant additional costs to making changes to the KID at this stage. Any change to the PRIIPs KID results in high compliance costs as the result of the internal measures taken by insurers to ensure changes are properly implemented.</p>	
Q12	<p>Adding past performances would have some very structuring impacts on the production of KIDs. It would be necessary to build past performances for underlying products that do not have any (new products, structured products, etc.). We also would have to address the interferences with other KID elements (impact of costs on past or future performance). We therefore believe that the costs of implementing this new approach would be almost equivalent to those related to the implementation of the whole PRIIPs regulation in 2018. The introduction of past performance should be considered in the framework of a comprehensive reform – not as a complement to forward-looking scenarios but instead of them (for products for which such an approach is relevant for consumers).</p>	
Q13	<p>If the PRIIPs methodology is changed too often, consumers may lose trust in the information contained in the PRIIPs KID. We urge the ESAs not to introduce any interim solutions and encourage the ESAs to conduct an in-depth review at a later stage that is preceded by a consumer</p>	

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	testing and thorough consultations with expert groups and stakeholders.	
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