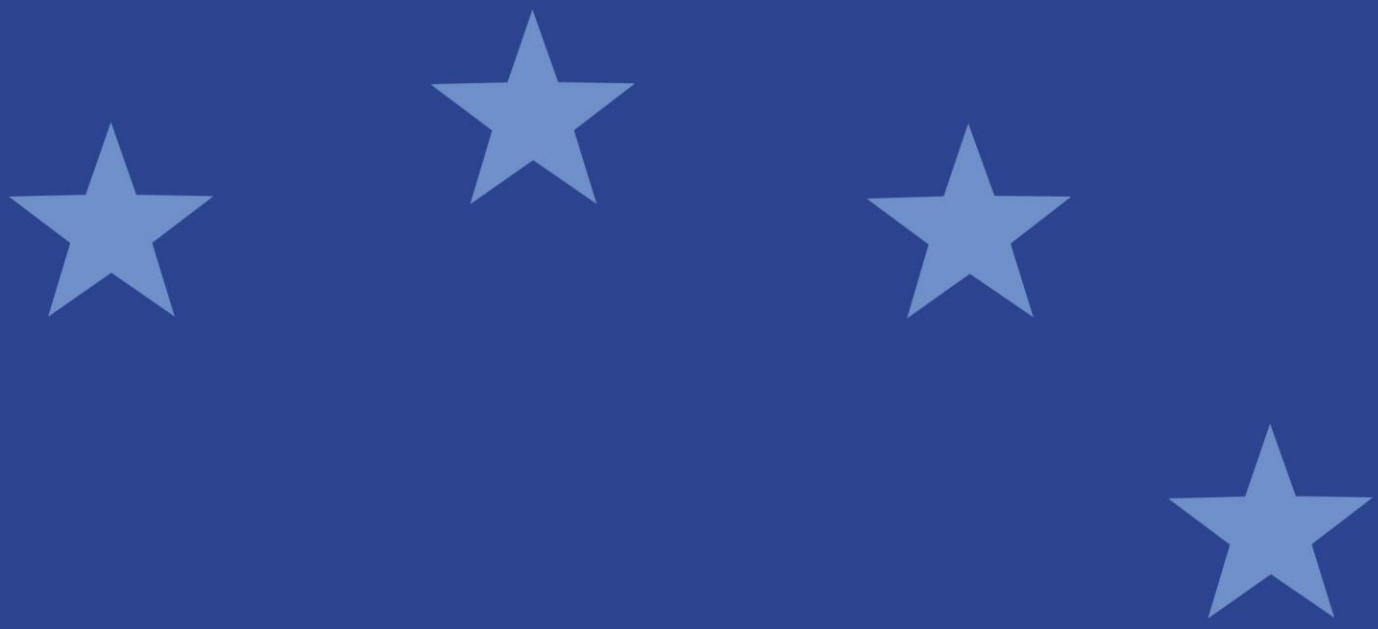
esma European Securities and Markets Authority

Reply form for the Technical Discussion Paper on PRIIPs



23 June2015

European Securities and Markets Authority

Date: 23 June 2015

Responding to this paper

EBA, EIOPA and ESMA (the ESAs) welcome comments on this Technical Discussion Paper on Risk, Performance Scenarios and Cost Disclosures in Key Information Documents for Packaged Retail and Insurance-based Investment Products (PRIIPs).

Instructions

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

- use this form and send your responses in Word format (pdf documents will not be considered except for annexes);
- do not remove the tags of type < ESMA_QUESTION_PRIIPs_1> - i.e. the response to one question has to be framed by the 2 tags corresponding to the question; and
- if you do not have a response to a question, do not delete it and leave the text "TYPE YOUR TEXT HERE" between the tags.

Responses are most helpful:

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

Naming protocol

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

ESA_TDP_PRIIPs_NAMEOFCOMPANY_NAMEOFDOCUMENT.

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

ESA_TDP_PRIIPs_XXXX_REPLYFORM or

ESA_TDP_PRIIPs_XXXX_ANNEX1

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

Deadline

Responses must reach us by **17 August 2015.**

All contributions should be submitted online at www.esma.europa.eu under the heading 'Your input/Consultations'.

Publication of responses

All contributions received will be published following the close of the consultation, unless you request otherwise. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with the ESAs' rules on public access to documents.[1] We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by the Board of Appeal of the ESAs and the European Ombudsman.

Data protection

Information on data protection can be found on the different ESAs' websites under the heading 'Legal notice'.

[1] See https://eiopa.europa.eu/about-eiopa/legal-framework/public-access-to-documents/index.html.

General information about respondent

Name of the company / organisation	European Private Equity and Venture Capital Association
Activity	Investment Services
Are you representing an association?	☒
Country/Region	Belgium

Introduction

Please make your introductory comments below, if any:

< ESMA_COMMENT_PRIIPs_1>

The European Private Equity and Venture Capital industry welcomes the opportunity to respond to the ESAs' Discussion Paper on Risk, Performance Scenarios and Cost Disclosures in the Key Information Document (KID) for PRIIPs. We write on behalf of the representative national and supranational European private equity and venture capital (here below referred as "private equity") bodies.

Characteristics of private equity funds and the preparation of a KID

Private equity funds are very different to many other types of investment funds. They have evolved over time from individual investments into unlisted companies being made by institutional investors to funds which pool the interests of multiple investors in a common vehicle. By pooling capital, investors diversify risk and benefit from the specialist investment skill of an independent manager.

Private equity funds are often, but not always, structured as limited partnerships with a contractually limited life. Investors become limited partners in the partnership and their liability is limited to the capital they commit to the fund. The fund is managed by the general partner of the limited partnership (or, in some cases, by an affiliate of the general partner).

Private equity investment, i.e. investment of the kind that is generally undertaken by PRIVATE EQUITY funds, is typically investment in unlisted, private companies. Whilst each acquisition and sales process is different, PE and VC funds typically exhibit the following characteristics:

- they are closed-ended and do not offer redemption rights for investors;
- they invest for the long term (often with a fund life of ten years that can be subject to extensions; and
- they invest in unlisted companies and assets that are not subject to frequent (e.g. daily) valuations nor have a readily ascertainable market price.

Application of the PRIIPs Regulation to the private equity industry

Whilst we fully support European legislators' efforts to improve the transparency of information on retail investment products provided to 'true' retail investors, we are concerned that unless the PRIIPs Regulation is read and applied purposively and proportionately, it could have unintended (and unwelcome) consequences for the PRIVATE EQUITY industry, many of which would run counter to recent statements made in the context of the European Commission's proposals for a Capital Markets Union ('CMU'). We set out below our views on how the PRIIPs Regulation should apply in the private equity context.

(i) Private equity funds with institutional investors only – wholly outside scope of PRIIPs Regulation

PE and VC managers primarily raise funds from institutional investors, such as sovereign wealth funds, banks and pension funds. Many private equity funds will have only institutional investors and will therefore be wholly outside the scope of the PRIIPs Regulation as, "*investment funds dedicated to*

institutional investors are excluded from the scope of [the PRIIPs] Regulation since they are not for sale to retail investors" (Recital 7, PRIIPs Regulation). It is clear that a KID need not be prepared in such a scenario as, "*… where a product is not sold to retail investors, there should be no obligation to draw up a [KID]…*" (Recital 12, PRIIPs Regulation).

(ii) Carried interest and co-investment vehicles – wholly outside scope of PRIIPs Regulation

Private equity funds commonly have in place carried interest and co-investment arrangements. These arrangements form part of the private equity risk sharing model and are expected and, indeed, often required by investors.

We have described these arrangements in detail in other responses to individual ESAs (see, for instance, our response to the EBA's recent consultation paper '*Draft Guidelines on sound remuneration policies under Article 74(3) and 75(2) of Directive 2013/36/EU and disclosures under Article 450 of Regulation (EU) No 575/2013*'). In summary, under carried interest arrangements, senior executives at the fund manager are often awarded interests in a limited partnership 'carry' fund which is, in turn, a limited partner in the main fund. Those executives will receive carried interest only if the fund exceeds certain performance hurdles. Under co-investment arrangements, fund executives invest their own money alongside the main fund. This promotes alignment of interests and ensures that the investment team has "skin-in-the-game". In some cases, executives' family members or personal trustees – as well as in some cases the chairmen of the portfolio companies - will also make an investment into the relevant vehicle. In light of the MiFID II definition of "retail" investors, on which the PRIIPs Regulation relies (see further below), the executives, family members, personal trustees and chairmen are likely to be "retail" investors.

We consider that carried interest and co-investment vehicles should not be regarded as PRIIPs because they are not vehicles which are "manufactured" by an entity in the financial services industry to provide investment opportunities to retail investors. They are (substantively) instead created by their executive participants to facilitate the alignment of their interests with those of the investors. As such, the vehicles are not, "*manufactured by the financial services industry to provide investment opportunities to retail investors*" (Recital 6, PRIIPs Regulation). In addition, such vehicles arguably do not involve any "packaging" element but are rather vehicles through which a direct holding in either the portfolio company structure or the fund itself is held.

We would therefore ask the ESAs expressly to acknowledge that carried interest and co-investment vehicles are not PRIIPs and therefore no KID is required to be prepared in relation to them.

(iii) Private equity funds with institutional and "semi-professional" investors only – need for a differentiated and proportionate treatment

As the PRIIPs Regulation uses the MiFID II definition of "retail investor", some private equity funds will be considered to have "retail" investors even though those investors will not be "average or typical" retail investors (as described in the European Commission's Explanatory Memorandum dated 3 July 2012).

This is because some private equity funds will, alongside the types of institutional investors described above, also admit as investors a small number of high-net worth and/or sophisticated individuals, many of whom will have significant experience of investing in private equity funds. On the basis of the MiFID II "retail" and "professional" client definitions, such investors will, however, fall to be categorized as "retail" investors.

As we described in our response to the recent CMU Green Paper (Question 11), the MiFID elective professional tests, when put into the private equity context, limit the number of investors who may be treated as professional investors because those tests are calibrated for MiFID investment services provided in relation to liquid assets such as traded shares. The tests are extremely difficult to satisfy in the case of individuals (regardless of their wealth, sophistication or experience) who invest in long-term

funds which invest in relatively few transactions, such as, for example, high-net worth individuals, whether ex- or existing entrepreneurs, who provide not only funding but also know-how, expertise and networks to the start-ups/growth companies being invested into by the fund.

There is also a class of investors who are now categorised as **semi-professional investors**, based on the definition in Article 6 of the European Venture Capital Funds (EuVECA) Regulation. We strongly believe that this concept should be taken into account in the context of the PRIIPs Regulation in order to ensure that the Regulation applies proportionately and does not impose an additional regulatory burden on private equity fund managers with no commensurate increase in investor protection

All prospective investors in a private equity fund, including semi-professional investors, are provided with considerable amounts of information on the fund and the fund manager and carry out their own due diligence prior to making an investment. In addition, as part of their investment, they will acknowledge that they understand the risks involved in making that investment. We do not consider that there will be any increase in investor protection should such investors receive a detailed KID and we feel that such a requirement is contrary to the stated policy intent of the CMU proposals. In France, where funds such as "fonds d'investissement de proximité ('FIP')" and FCPIs have been required, since 2011, to prepare a presentation of risks, costs and performance scenarios for retail funds, funds who market to semi-professional investors are recognized to be outside the scope of those requirements and are not required to prepare such information.

While we acknowledge that the PRIIPS Regulation does not make reference to the EUVECA definition of semi-professional investors and that any modification of the approach would be better achieved by a change at Level 1, we believe that ESAs should permit PRIIPS manufacturers to include the required information in brief, narrative form. By way of example, including a statement that the investment is high risk and summarising the key risks relevant to the investment should be deemed sufficient, as long as these are semi-professional investors, in order to satisfy the requirements of Article 8(3)(d)(i) of the PRIIPs Regulation.

We are also convinced that there are compelling reasons for developing this **new additional concept of retail investors that require only limited disclosures in the KID**. Investors which satisfy the test at Article 6 of the EuVECA Regulation could then be treated as outside the scope of the retail investor definition used in the PRIIPs Regulation.

(iv) Private equity funds and other products with 'true' retail investors – KID required

Whilst investors within the private equity industry remain largely institutional, the industry has over time opened up to retail investors in order to maximize the pool of available capital. Our data shows that categories of investors which **may include** retail investors (such as family offices, funds raised on capital markets and private individuals) did not amount to more than 10.9% of overall fundraising in the last eight years.

Whilst the marketing passport available under the Alternative Investment Fund Managers Directive permits marketing only to "professional" investors, some jurisdictions allow retail investors to invest in alternative investment funds. In addition, some jurisdictions' legislation provides for specific structures under which retail investment can be made into private equity (e.g. venture capital trusts in the UK).

Because of the legal and historical reasons outlined above and due to the particular characteristics of a private equity investment, many private equity funds will not be directly marketed to retail investors but such investors will have access to the fund through listed vehicles, fund-of-funds and certain other vehicles.

In these cases, where investors are 'true' retail investors (i.e. they are neither professional investors under MiFID nor semi-professional investors under the EuVECA regulation) we acknowledge that a KID will need to be prepared.

General comments on the content of the KID

While it is crucial to take into account the sensibilities of different asset classes regarding the specific elements to disclose, the ESAs should also recognize that KIDs first and foremost have to act as a supplement to what is missing from the disclosures required through a fund's existing status, including their annual report and accounts and any prospectus they would have to publish.

In order to ensure that disclosures are relevant to them it is crucial that the regulatory technical standards ('RTS') ESAs will prepare accommodate the specific characteristics of private equity funds, as described under the heading ' *Characteristics of private equity funds*' above.

These specific features mean that the risk analysis carried out for private equity funds will be very different from that of tradeable securities and the RTS need to ensure that measures which may be deemed appropriate for asset classes that have readily available market data are not artificially applied to private equity funds. We do note that the ESAs acknowledge that different methodologies could be applied when assessing risk.

At the same time we would like to highlight that private equity fund managers do not in general compile or provide some of the information envisaged in this Discussion Paper, notably quantitative risk measures (such as VaR) or expected investment returns calculated using models. This point is significant because the processes that will be necessary in order to implement the requirements of the KID would not only be costly, but would also require a new approach to be designed and accepted by the industry. This is likely to serve as a significant disincentive to fund managers to market to retail investors at a time where the EU seeks to allow more of these to access capital markets and would put European managers and investors at a disadvantage to their international counterparts.

In terms of our response to specific questions posed in the Discussion Paper, we have responded only to those questions which are particularly pertinent to the private equity industry and covers funds that are directly marketed to retail investors. While there are other forms of investments, as stated above, the characteristics and risks of these direct investments would make them particularly vulnerable to the future regulatory technical standards, if they were to be adopted under the proposed conditions set out in the Discussion Paper.
< ESMA_COMMENT_PRIIPs_1>

1. Please state your preference on the general approach how a distribution of returns should be established for the risk indicator and performance scenarios' purposes. Include your considerations and caveats.

<ESMA_QUESTION_PRIIPs_1>
Note: When looking at our responses related to the risk section, we invite the ESAs to take into account the characteristics of private equity funds as they are detailed in the introduction to our response.

Historical data is the method used to compare returns in the private equity industry and managers are assessed based on their historic track record. Out of the approaches being considered to estimate the distribution of returns, the first based on historical data would therefore be the most applicable for the private equity industry as this is how investors currently assess managers.

Due to the very nature of private equity investments, which are illiquid and unlisted, all the other options presented that require a stochastic model are not recognized as means of measuring performance or risk in the private equity industry today and are generally unsuitable for these investments. These investments are mostly affected by the capital risk, whose main factor is the quality of the fund manager. Any attempt to predict returns in a granular manner (such as option e) would be completely unfamiliar to the industry.

It is important that option c is not adopted as current market prices for private equity assets cannot be estimated from the current market prices of derivatives and other forward looking contracts. As explained in our introduction, while private equity funds are able to calculate a net asset value based on the fair valuation of assets under accounting standards, this must not be confused with market prices that are readily available for traded securities as asset valuations for private equity investments take time to prepare and are not calculated daily. In addition, private equity funds by their nature are not traded and so market data is not available which would enable modeling based on parameters estimated from historical data (option b) and predefined parameters (option d).
<ESMA_QUESTION_PRIIPs_1>

2. How should the regulatory technical standards define a model and the method of choosing the model parameters for the purposes of calculating a risk measure and determining performance under a variety of scenarios?

<ESMA_QUESTION_PRIIPs_2>
The private equity industry does not have a market standard for computing risk in the manner envisaged by the technical Discussion Paper and it would be preferable for the fund manager to have the discretion to select the most appropriate model and parameters. Prescribing a standard model carries the risk of producing misleading and less meaningful information if all industries follow the same approach. For example, this would be the case if a Black-Scholes model was adopted for all equities as this model would not be appropriate for unlisted companies that private equity funds invest in.
<ESMA_QUESTION_PRIIPs_2>

3. Please state your view on what benchmark should be used and why. Are there specific products or underlying investments for which a specific growth rate would be more or less applicable?

<ESMA_QUESTION_PRIIPs_3>
Whilst we acknowledge the need to consider the time value of money and the application of growth rates to the amount invested, it is difficult to comment on what the benchmark could be given our previous comments about the applicability of traditional risk measures in a private equity context. Generally, returns in private equity are measured using cash flows such as an internal rate of return ("IRR"- both gross and net of fees. The IRR is calculated as an annualized effective compounded rate of

returns, based on cash flows to and from investors and takes into account the residual value as the terminal cash flow to investors.

This approach would factor in the time value of money and so a further adjustment would not be required. Private equity firms also use other metrics such as the multiple on capital invested, although this does not factor in the time value of money.
<ESMA_QUESTION_PRIIPs_3>

4. What would be the most reasonable approach to specify the growth rates? Would any of these approaches not work for a specific type of product or underlying investment?

<ESMA_QUESTION_PRIIPs_4>
The technical discussion paper sets out a number of challenges associated with specifying a growth rate to be used in the calculation of risk measures and the particular issues related to use of asset specific risk premiums. For those reasons, this approach would be difficult to implement for private equity funds as they make investments for the long term and conditions can change throughout an investment cycle. Furthermore, investments will be made in different sectors and geographies and the exact investment plan cannot be determined from the outset of a fund's life. This also underlines the difficulties the industry will have adopting traditional risk measures that are more suited to tradeable securities and products.

As stated in our response to Question 1, historical data is the method currently used to compare returns in the private equity industry although it has its limits. Public data base providers such as Preqin, Cambridge Associates and others provide returns (IRR and multiples) for private equity funds. However, one should be careful not to make any model too dependent on current market conditions as this carries the danger of over-emphasizing temporary depressed market conditions private equity funds may be exposed to at one stage of their lifetime, as well as being too optimistic during periods of market booms that are not indicative of a later exit environment.
<ESMA_QUESTION_PRIIPs_4>

5. Please state your view on what time frame or frames should the Risk Indicator and Performance Scenarios be based

<ESMA_QUESTION_PRIIPs_5>
The timeframe used in the risk indicator and performance scenarios should be option c – the recommended holding period with a warning or narrative text that explains the possible variation in risk over time. Private equity funds do not offer redemption rights so showing the risk indicator or performance scenarios at different time horizons would not be appropriate. The underlying investments in private equity funds are made at different points in time over an investment period (usually the first five years) and returns typically follow a "J-curve" (loss in the first few years, followed by a return only close to the end of the fund lifetime).

Institutional investors use a variety of models based on cash flow forecasts to assess the risks of their private equity investments. The cash flow projections make assumptions about the levels of draw-downs and distributions over the lifetime of an average fund as observed historically, and apply this to the funds invested in to come up with an aggregate for the portfolio.<ESMA_QUESTION_PRIIPs_5>

6. Do you have any views on these considerations on the assessment of credit risk, and in particular regarding the use of credit ratings?

<ESMA_QUESTION_PRIIPs_6>
Credit risk in the context of private equity funds is the risk that an investor may not receive his/her capital back and this is driven by the realisation value of assets in a fund. The quality of the private equity manager is key in assessing this risk in the context of their ability to realize assets, however other factors such as economic and industry-specific conditions, interest rates and foreign exchange

rates will also have an impact. These other factors are likely to be a feature of the market risk measure so we agree that it is appropriate to focus on the credit risk associated with the manufacturer from a qualitative perspective.

The proposals for addressing credit risk need to reflect the fact that not all products have an individual credit rating or a credit default swap spread. The use of credit spreads and credit default swap spreads will not be applicable for private equity managers as these are typically relatively small, owner-managed businesses and the funds managed by them do not have credit ratings. We agree with the limitations noted in the discussion paper on the use of these measures.

On this basis, it would be appropriate to simply use the extent of prudential supervision as an appropriate indicator of credit risk. private equity firms across the EU are either registered or authorised under the Alternative Investment Fund Managers Directive and may be subject to other European and domestic regulation depending on the scope of their regulated activities.
<ESMA_QUESTION_PRIIPs_6>

7. Do you agree that liquidity issues should be reflected in the risk section, in addition to clarifications provided in other section of the KID?

<ESMA_QUESTION_PRIIPs_7>
Liquidity in the broader context of private equity is not dependent on whether an investor is able to withdraw his or her commitment (as the investor is aware the fund is closed-ended and illiquid), but rather that the investor has enough liquidity to meet future capital calls. If this is not the case, the investor can then find themself in a position where the failure to meet a call results in negative consequences.

Illiquidity is therefore a part of the profile of the product due to the nature of its underlying assets as well as the lack of redemption rights, and we believe this information should be included in the sections covering “what is the product” and “how long should I hold it and can I take money out early”.

Although secondary markets for private equity funds exist, in situations where investors are forced to trade, these markets tend not to be active or highly sophisticated (compared to other equity markets), and this does affect the amount an investor can receive back. It would also be inappropriate for the manufacturer to comment on the existence of secondary markets as contemplated in the paper.

For the reasons set out above calculating a meaningful quantitative measure for liquidity risk in the private equity context would not be practical and therefore it is essential that liquidity risk should be described in the narrative rather than within the summary risk indicator as this provides clarity for investors.
<ESMA_QUESTION_PRIIPs_7>

8. Do you consider that qualitative measures such as the ones proposed are appropriate or that they need to be supplemented with some quantitative measure to some extent?

<ESMA_QUESTION_PRIIPs_8>
We consider that liquidity risk should be covered by a qualitative measure and should not be supplemented with quantitative measures for private equity for the reasons set out on Question 7 above.
<ESMA_QUESTION_PRIIPs_8>

9. Please state your views on the most appropriate criteria and risk levels´ definition in case this approach was selected.

<ESMA_QUESTION_PRIIPs_9>

Out of the four options presented in the discussion paper, option 1 (a qualitatively based indicator combining credit and market risk, complemented by a quantitative market risk measure) would be a viable option to implement when calculating the risk indicator for private equity funds. However this is on: (1) the basis that purely qualitative indicators have been rejected by the ESAs and (2) the assumption that the quantitative market risk measure uses a methodology which is appropriate given the characteristics of private equity funds as noted in our response to previous questions. **Our position remains that it is impractical to compute a quantitative measure for private equity funds that would be universally accepted or relevant.**

We believe Option 1 is the approach that could best take into account the specificities of each asset class retail investors can invest in and the qualitative information would provide investors with a clearer understanding of the risks involved. Criteria covering the risk of loss as highlighted in the first table in the paper would be the most appropriate criteria to use when establishing different risk classes. Criteria using average losses, volatility or the UCITS indicator would be more difficult to apply to different types of PRIIPS and for private equity funds, would be impractical to calculate in many cases.

Given private equity funds are long-term, illiquid investments, the main risk is a long term capital risk, affected by factors such as, the quality of the manager, equity market exposure (at the time of exit), interest rates and foreign exchange exposure. As expressed below (question 10), market volatility should not be factored in when calculating the market risk of a private equity funds.

A number of practitioners and researchers have tried to apply existing credit portfolio models to private equity. However, credit risk models only reflect downside risk while the significant upside of fund investments is ignored. Aggregating just the probability of default/loss given default figures for individual funds, even when factoring in diversification benefits resulting from correlations between individual funds defaulting, will produce overall risk weights for portfolios of funds that are excessive. Therefore any approach adopted in the RTS would need further consultation with the industry as the use of models to measure market risk is not a feature of this asset class.
<ESMA_QUESTION_PRIIPs_9>

10. Please state your views on the required parameters and possible amendments to this indicator.

<ESMA_QUESTION_PRIIPs_10>
The second option in the paper separately assesses market risk using a quantitative measure based on volatility and we agree with the comment in the discussion paper that a volatility-based measure is not appropriate for illiquid and long term investments such as private equity funds. We would therefore encourage the ESAs to avoid applying Option 2 to private equity funds.

Option 2 also requires a qualitative measure based on external credit ratings. Our response to question 6 sets out the challenges with such an approach for private equity funds.
<ESMA_QUESTION_PRIIPs_10>

11. Please state your views on the appropriate details to regulate this approach, should it be selected.

<ESMA_QUESTION_PRIIPs_11>
As Option 3 is an indicator based on quantitative market and credit risk measures calculated using forward looking models, it will be a costly and burdensome approach to implement.

For private equity funds only modelling longer time frames is meaningful. Here, returns are simulated for the whole investment horizon, i.e., the fund's expected lifetime. However, this raises the question of how such models should and could be regulated. It would be impractical to set parameters for the industry to apply to ensure comparability as it is diverse i.e. it invests in a range of sectors, geogra-

phies, etc. Developing the models to use and ensuring proper model governance, based on independent reviews and model documentation, would be a costly exercise.
<ESMA_QUESTION_PRIIPs_11>

12. Please state your views on the general principles of this approach, should it be selected. How would you like to see the risk measure and parameters, why?

<ESMA_QUESTION_PRIIPs_12>
Back-testing required by regulators addresses mainly trading activities. A key assumption underlying a back-testing is that what happened in the past will continue to happen in the future. Implicitly back-testing assumes a stable underlying statistical process and presupposes that the modeled environment is behaving orderly and predictable. Such a framework, however, cannot be used in the context of long-term assets like private equity funds.

Please also refer to our answer to question 11 where we set out our concerns with this approach in the context of private equity funds.
<ESMA_QUESTION_PRIIPs_12>

13. Please state your views on the potential use of a two-level indicator. What kind of differentiators should be set both for the first level and the second level of such an indicator?

<ESMA_QUESTION_PRIIPs_13>
A two-tier indicator that uses an approach where illiquid investments could be differentiated "at a first level" from other types of investments, could add further granularity. However, this approach may not be easy to understand in practice and should it adopt quantitative measures, particularly those based on volatility, it will not be suitable for private equity investments.
<ESMA_QUESTION_PRIIPs_13>

14. Do you have suggestions or concrete proposals on which risk scale to use and where or how the cut-off points should be determined?

<ESMA_QUESTION_PRIIPs_14>
We have no further points to make given our concerns noted in the answer to question 5.
<ESMA_QUESTION_PRIIPs_14>

15. Please express your views on the assessment described above and the relative relevance of the different criteria that may be considered.

<ESMA_QUESTION_PRIIPs_15>
While we are providing our views on this area, it is still important to note that the calculation of expected performance from the outset of a fund is not a private equity industry norm as it can be misleading due the fact that it is impossible to establish all the factors and assumptions at the outset of a fund that could be used to construct a probabilistic outcome given the long term and illiquid nature of the funds and investments. There should therefore be the possibility of providing narrative commentary in this section rather than significant quantitative analysis.

When presenting expected returns in a performance scenario, a probabilistic approach is not appropriate in the context of long-term, illiquid funds such as private equity funds and the methodology required would be costly, if not impossible, to implement. For this reason, we believe a "what-if: manufacturer's choice approach" setting out hypothetical scenarios, which are not dependent on a model, would be more appropriate in our context. In general, the "what-if" hypothetical scenarios would be more understandable to the retail investor as they would provide a clear explanation of the circumstances that could have an impact on returns and demonstrate the particular characteristics of a fund.

Furthermore, the use of a probabilistic approach could be misinterpreted as the expected return from a product rather than the likelihood of achieving a particular return. For example, the current presentation of costs and performance scenario currently required by the French legislation on the FCPI faces two major issues: the final cost of the fund and expected performance are estimated on the basis of unknown commitments and incalculable costs; and the net asset value of the fund all along its lifetime is unknown at the date of the establishment of the KID. As a result, it is impossible for the fund manager to give a certain estimate of the expected performance and return to investors which is to be displayed in the KID under a probabilistic approach.

Combinations of hypothetical and probabilistic approaches should also be avoided as these will be overly complex for investors to understand and for manufacturers to prepare. We would strongly advocate a simple approach to this section, bearing in mind the need to restrict the overall KID to three pages.

The manufacturer should have the discretion to determine what the appropriate performance scenarios should be and a prescribed approach determined by a regulator should be avoided given the fundamental differences that exist between different types of PRIIPS. Even within the private equity industry, it would be impractical to establish a prescribed approach for performance scenarios as funds have different strategies investing in a range of sectors and geographies. The hypothetical scenarios should use the manufacturer's track record and past performance as this is important for investors when assessing whether to invest in a long term asset class. We believe a historical scenario is more appropriate in the context of private equity. It would not make sense to set a predefined growth rate of the underlying investment for reasons explained in our response to Question 5.

Allowing manufacturers to select their own performance scenarios will not reduce comparability as it cannot be assumed that comparability between different types of PRIIPS, and indeed different types of private equity funds, is possible in the first place. The ESAs also need to consider the costs of implementation when determining which approach to adopt, particularly for asset classes like private equity where retail investors comprise a small percentage of the overall investor base (as noted in our introductory comments).
<ESMA_QUESTION_PRIIPs_15>

16. Do you think that these principles are sufficient to avoid the risks of manufacturers presenting a non-realistic performance picture of the product? Do you think that they should be reinforced?

<ESMA_QUESTION_PRIIPs_16>
We believe principles set in the UCITS guidelines on performance scenarios are sufficient to avoid the risks of manufacturers presenting a non-realistic performance picture of the product. However, it is important to treat private equity funds differently from UCITS funds when implementing the principles where applicable so the RTS will need to incorporate this flexibility. In particular, it needs to be taken into account that private equity funds are closed-ended and that scenarios should not necessarily be updated as regularly as suggested in the UCITS guidelines. In the case of private equity, three case scenarios depending on the performance of companies based on historical data are sufficient to illustrate the inherent risk of the (long-term) investment. Furthermore, manufacturers will be conscious of the liability provisions in the PRIIPS Regulation and this on its own would be a deterrent to inflating performance.
<ESMA_QUESTION_PRIIPs_16>

17. Do you think the options presented would represent appropriate performance scenarios? What other standardized scenarios may be fixed?

<ESMA_QUESTION_PRIIPs_17>

As described in our responses to questions above, these options do not apply as the calculation of expected performance from the outset of a fund is not a private equity industry norm.
<ESMA_QUESTION_PRIIPs_17>

18. Which percentiles do you think should be set?

<ESMA_QUESTION_PRIIPs_18>
We have no comments to make here as we do not advocate this approach for the reasons outlined in our answer to question 15.
<ESMA_QUESTION_PRIIPs_18>

19. Do you have any views on possible combinations?

<ESMA_QUESTION_PRIIPs_19>
We have no comments to make here as we do not advocate this approach for the reasons outlined in our answer to question 15.
<ESMA_QUESTION_PRIIPs_19>

20. Do you think that credit events should be considered in the performance scenarios?

<ESMA_QUESTION_PRIIPs_20>
Credit events relating to the issuer/manufacturer are generally not as relevant for private equity funds as investors can have the ability to remove a manager for a fund. Moreover, this would complicate the performance scenario analysis and as highlighted before, we would strongly advocate a simple approach that is easy for an investor to digest.
<ESMA_QUESTION_PRIIPs_20>

21. Do you think that such redemption events should be considered in the performance scenarios?

<ESMA_QUESTION_PRIIPs_21>
Regarding the inclusion of specific redemption events in the performance scenarios, we would like to stress again that private equity funds do not offer redemption rights. While this fact should be made clear as part of the product information, in order to ensure the investor is aware this is a long-term investment, the performance of a private equity fund is not influenced as such by redemption events. Therefore trying to a construct a performance scenario which incorporates redemptions would be artificial.

It is also within the investors' remit to sell an interest in a fund in the secondary market and because this is not as deep as other equity markets, it would be impossible to ascertain what the impact could be on the value of the funds. Other sections within the KID would already highlight what would happen to an investors' interest if they were to redeem early as this is a feature of private equity funds e.g. in the sections covering "what is the product" and "how long should I hold it and can I take money out early".
<ESMA_QUESTION_PRIIPs_21>

22. Do you think that performance in the case of exit before the recommended holding period should be shown? Do you think that fair value should be the figure shown in the case of structured products, other bonds or AIFs? Do you see any other methodological issues in computing performance in several holding periods?

<ESMA_QUESTION_PRIIPs_22>
For private equity funds, the impact on performance if an investor exits before the recommended holding period would be difficult to quantify as they are closed-ended products. The contractual terms

and penalties related to exiting early would be documented in other sections of the KID. Please also refer to our answer to question 21 as comparing performance for different holding periods would not be relevant or feasible.
<ESMA_QUESTION_PRIIPs_22>

23. Are the two types of entry costs listed here clear enough? Should the list be further detailed or completed (notably in the case of acquisition costs)? Should some of these costs included in the on-going charges?

<ESMA_QUESTION_PRIIPs_23>
These costs seem appropriate to include as entry costs and would not be on-going charges.
<ESMA_QUESTION_PRIIPs_23>

24. How should the list be completed? Do you think this list should explicitly mention carried interest in the case of private equity funds?

<ESMA_QUESTION_PRIIPs_24>
Our opinion is that **carried interest** cannot be considered as a simple payment to the management company and does not represent a performance fee or a cost to investors. As stated under AIFMD (Article 4.1(d)), carried interest is a **share in the profits of the AIF allocated to the AIFM** – it is a profit sharing allocation that is negotiated by investors in a fund and follows quite predictable norms. The fund manager is typically only eligible once investors have received their drawn down capital back (including also amounts drawn to pay the management fee / priority profit share) plus any agreed preferred return. It is a basic principle of private equity investing that returns are achieved through realised gains that are made once an investment is sold – not by market valuations.

We also would like to mention that, in this type of structure, also in the cases where sharing of the net returns between investors and the manager may occur during the life of the fund, there are typically measures in place (for example, escrow, interim claw-back and end of life true-ups) designed to protect investors, such that by the end of the life of the fund, the fund manager should only have received its pre-agreed share of the net profits generated.

Furthermore, it is crucial to note that carried interest alone is not a meaningful piece of information. It is rather the carried interest calculation or 'waterfall' (including the hurdle rate, basis for calculation, such as committed or invested capital, potential claw-backs, etc) that defines the incentive structure.

Given the variable nature of carried interest, it is impossible to calculate it with precision before the end of the funds' life and, *at fortiori*, before investors' invests into the fund. The difference between carried interest and other types of private equity costs is made clear within Articles 23 and 24 of AIFMD where carried interest is not specifically included in the list of costs. For this reason, we do not believe carried interest should be included as a cost under point (a).

We would also like to mention that carried interest is not considered as a "performance fee" (unless in specific cases unrelated to direct investment), as detailed under our response to Question 42.

In addition, any amounts which are allocated to the fund manager as a co-investment subject to an investment by the fund manager into the fund is not considered to be remuneration nor is it thus subject to the AIFMD remuneration guidelines. It should be clear in the RTS that this is not a cost for investors.

Regarding the **other elements** of the proposed list of costs, the annual management fee may be offset by other fees earned by the fund manager which are received directly from investments in portfolio companies. Therefore the list could present management fees gross and net of these fees where applicable.
<ESMA_QUESTION_PRIIPs_24>

25. Should these fees be further specified?

<ESMA_QUESTION_PRIIPs_25>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_PRIIPs_25>

26. Should these fees be further specified? The "recovering fees" cover the following situation: when an investor receives income from foreign investments, the third-country government may heavily tax it. Investors may be entitled to reclaim the difference but they will still lose money in the recovering process (fee to be paid).

<ESMA_QUESTION_PRIIPs_26>
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<ESMA_QUESTION_PRIIPs_26>

27. Should these fees be further specified? The "recovering fees" cover the following situation: when an investor receives income from foreign investments, the third-country government may heavily tax it. Investors may be entitled to reclaim the difference but they will still lose money in the recovering process (fee to be paid).

<ESMA_QUESTION_PRIIPs_27>
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<ESMA_QUESTION_PRIIPs_27>

28. This list is taken from the CESR guidelines on cost disclosure for UCITS. What is missing in the case of retail AIFs (real estate funds, private equity funds)?

<ESMA_QUESTION_PRIIPs_28>
We agree it would be sensible to identify any fees/costs paid directly by portfolio companies to the manager. However this should be shown separately so it is clear who will pay the fees/costs. The treatment of such fees/costs will be specific to each individual fund.
<ESMA_QUESTION_PRIIPs_28>

29. Which are the specific issues in relation to this type of costs?

<ESMA_QUESTION_PRIIPs_29>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_PRIIPs_29>

30. Is it relevant to include this type of costs in the costs to be disclosed in the on-going charges? Which are the specific issues in relation to this type of costs? Which definition of Costs for capital guarantee or capital protection would you suggest? (Contribution for deposit insurance or cost of external guarantor?)

<ESMA_QUESTION_PRIIPs_30>
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<ESMA_QUESTION_PRIIPs_30>

31. Which are the specific issues in relation to this type of costs? Should the scope of these costs be narrowed to administrative costs in connection with investments in derivative instruments? In that respect, it could be argued that margin calls itself should

not be considered as costs. The possible rationale behind this reasoning would be that margin calls may result in missed revenues, since no return is realized on the cash amount that is deposited, and that:

<ESMA_QUESTION_PRIIPs_31>
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<ESMA_QUESTION_PRIIPs_31>

32. Which are the specific issues in relation to this type of costs? Should this type of costs be further detailed/ defined?

<ESMA_QUESTION_PRIIPs_32>
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<ESMA_QUESTION_PRIIPs_32>

33. How to deal with the uncertainty if, how and when the dividend will be paid out to the investors? Do you agree that dividends can be measured ex-post and estimated ex-ante and that estimation of future dividends for main indices are normally available?

<ESMA_QUESTION_PRIIPs_33>
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<ESMA_QUESTION_PRIIPs_33>

34. Is this description comprehensive?

<ESMA_QUESTION_PRIIPs_34>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_PRIIPs_34>

35. Can you identify any difficulties with calculating and presenting explicit broker commissions? How can explicit broker commissions best be calculated ex-ante?

<ESMA_QUESTION_PRIIPs_35>
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<ESMA_QUESTION_PRIIPs_35>

36. How can the total of costs related to transaction taxes best be calculated? How should this be done to give the best estimate ex-ante? Are there other explicit costs relating to transactions that should be identified? Do you think that ticket fees (booking fees paid to custody banks that are billed separately from the annual custodian fee paid for depositing the securities) should be added to this list?

<ESMA_QUESTION_PRIIPs_36>
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<ESMA_QUESTION_PRIIPs_36>

37. As regards the abovementioned estimate, can the fair value approach be used?[2]

[2] One could also argue that all fund managers either have their own dealing desk or sub-contract this to other dealing desks. Since the principle of Best Execution is paramount, the dealers should know the typical spread in the securities with which they deal.

<ESMA_QUESTION_PRIIPs_37>
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<ESMA_QUESTION_PRIIPs_37>

38. Can you identify any other difficulties with calculating and presenting the bid-ask spread? Do you believe broker commissions included in the spread should be disclosed? If so, which of the above mentioned approaches do you think would be more suitable for ex-ante calculations or are there alternative methods not explored above?

<ESMA_QUESTION_PRIIPs_38>
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<ESMA_QUESTION_PRIIPs_38>

39. Do you believe that market impact costs should be part of the costs presented under the PRIIPs regulation? If so, how can the market impact costs best be calculated? How should this be done to give the best estimate ex-ante?

<ESMA_QUESTION_PRIIPs_39>
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<ESMA_QUESTION_PRIIPs_39>

40. How should entry- and exit charges be calculated considering the different ways of charging these charges? How should this be done to give the best estimate ex-ante? Can you identify any other problems related to calculating and presenting entry- and exit fees?

<ESMA_QUESTION_PRIIPs_40>
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<ESMA_QUESTION_PRIIPs_40>

41. Which other technical specifications would you suggest adding to the abovementioned methodology? Which other technical issues do you identify as regards the implementation of the methodology?

<ESMA_QUESTION_PRIIPs_41>
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<ESMA_QUESTION_PRIIPs_41>

42. Do you think that an explicit definition of performance fees should be included? Do you think the definition by IOSCO is relevant in the specific context of the cost disclosure of the PRIIPs Regulation?

<ESMA_QUESTION_PRIIPs_42>
We believe the IOSCO definition is relevant in the context of cost disclosure but we feel it is not applicable to carried interest.

We would like to draw the attention of the ESAs to the fact that the Final Report of IOSCO where the definition is contained does not apply to private equity funds and that its impending revision makes clear private equity funds are not within the remit of the Report as they are not typically marketed to retail investors.

Furthermore, we would like to stress that carried interest is not considered to be a "performance fee" in the context of direct private equity investments. If a definition of carried interest must be included in the final recommendations, then it should cross-refer to this definition set in AIFMD and accordingly should not be treated as a performance fee.

In addition, any amounts which are allocated to the fund manager as a co-investment subject to an investment by the fund manager is not considered to be remuneration nor is it a cost to investors and therefore is not relevant to the definition of performance fees.
<ESMA_QUESTION_PRIIPs_42>

43. What would be the appropriate assumption for the rate of returns, in general and in the specific case of the calculation of performance fees?

<ESMA_QUESTION_PRIIPs_43>
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<ESMA_QUESTION_PRIIPs_43>

44. Which option do you favor? Do you identify another possible approach to the disclosure and calculation of performance fees in the context of the KID?

<ESMA_QUESTION_PRIIPs_44>
As explained above, in our response to questions 24 and 42, carried interest should not be calculated as a cost nor should it be considered as a performance fee.

While carried interest is not a performance fee, if it were included in this definition, we believe it only makes sense to calculate carried interest under Option 1 (performance fees shown in performance scenarios). It would clearly show how carried interest arises under particular circumstances and that would be useful to an investor. Importantly, it would not be included in the total cost indicator which is appropriate as it relates to a profit share. The two other proposed options include an ex-ante estimate of performance fees which does not fit with the private equity fund's business model.

Private equity firms' carried interests are earned only from the realised cash returns from a fund. Given the success of a fund can only be achieved when the company has reached its target and is realised, the performance of the fund can neither be calculated with an annual average or with an estimation of the funds' return. It is also nearly impossible to prejudge the success of a fund by using an historical assessment of the performance of the fund, as this success largely depends on the companies it invests in. Given there is often no history of fund performance, except at the level of the industry as a whole, options which suggest ex-ante methods and use past values might not work in the case of private equity and give misleading information to the retail investor as to what it intends to invest in such a fund. Meanwhile, using "what-if" scenarios would give a better idea of the cost of the performance of the fund without risking giving a wrong estimate to the investor.
<ESMA_QUESTION_PRIIPs_44>

45. Which of the above mentioned options 1 and 2 for the calculation of aggregate costs would you prefer? Do you agree with above mentioned assumptions on the specificities of the costs of life-insurance products? How should the breakdown of costs showing costs specific to the insurance cover be specified? Do you think that risk-type riders (e.g. term or disability or accident insurances) have to be disregarded in the calculation of the aggregated cost indicator? How shall risk-type rider be defined in this context? (one possible approach might be: A risk-type rider in this context is an additional insurance cover without a savings element, which has separate contractual terms and separate premiums and that the customer is not obliged to buy as a compulsory part of the product).

<ESMA_QUESTION_PRIIPs_45>
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<ESMA_QUESTION_PRIIPs_45>

46. Do you think this list is comprehensive? Should these different types of costs be further defined?

<ESMA_QUESTION_PRIIPs_46>
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<ESMA_QUESTION_PRIIPs_46>

47. Do you agree that guaranteed interest rate and surrender options should be handled in the above mentioned way? Do you know other contractual options, which have to be considered? If yes how?

<ESMA_QUESTION_PRIIPs_47>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_PRIIPs_47>

48. Should the methodology for the calculation of these costs be further specified?

<ESMA_QUESTION_PRIIPs_48>
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<ESMA_QUESTION_PRIIPs_48>

49. Do you think this list and breakdown is comprehensive?

<ESMA_QUESTION_PRIIPs_49>
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<ESMA_QUESTION_PRIIPs_49>

50. Should the methodology for the calculation of these costs be further specified? How?

<ESMA_QUESTION_PRIIPs_50>
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<ESMA_QUESTION_PRIIPs_50>

51. Should the methodology for the calculation of these costs be further specified? How?

<ESMA_QUESTION_PRIIPs_51>
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<ESMA_QUESTION_PRIIPs_51>

52. Should the methodology for the calculation of these costs be further specified?

<ESMA_QUESTION_PRIIPs_52>
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<ESMA_QUESTION_PRIIPs_52>

53. Should the methodology for the calculation of these costs be further specified? How? Do fund related costs also exist for with profit life insurance products?

<ESMA_QUESTION_PRIIPs_53>
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<ESMA_QUESTION_PRIIPs_53>

54. How to ensure that the look-through approach is consistent with what is applied in the case of funds of funds?

<ESMA_QUESTION_PRIIPs_54>
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<ESMA_QUESTION_PRIIPs_54>

55. Should the methodology for the calculation of these costs be further specified?

<ESMA_QUESTION_PRIIPs_55>
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<ESMA_QUESTION_PRIIPs_55>

56. Which above mentioned or further options do you support, and why? More generally, how to measure costs that are passed to policy holders via profit participation mechanisms? Would you say that they are known to the insurance company? Do you think an estimate based on the previous historical data is the most appropriate methodology for the calculation of these costs?

<ESMA_QUESTION_PRIIPs_56>
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<ESMA_QUESTION_PRIIPs_56>

57. Is this type of costs really specific to with-profit life-insurance products? Do you agree that these costs should be accounted for as on-going costs?

<ESMA_QUESTION_PRIIPs_57>
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<ESMA_QUESTION_PRIIPs_57>

58. Do you think the list of costs of life-insurance products presented above is comprehensive? Which types of costs should be added?

<ESMA_QUESTION_PRIIPs_58>
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<ESMA_QUESTION_PRIIPs_58>

59. To what extent are those two approaches similar and should lead to the same results?

<ESMA_QUESTION_PRIIPs_59>
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<ESMA_QUESTION_PRIIPs_59>

60. In comparison to structured products, do you see any specificity of costs of structured deposits? Do you think that the potential external guarantees of structured de-

posits might just have to be taken into account in the estimation of the fair value of these products?

<ESMA_QUESTION_PRIIPs_60>
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<ESMA_QUESTION_PRIIPs_60>

61. Do you agree with the above mentioned list of entry costs? Which of these costs are embedded in the price? Should we differentiate between "delta 1" and "option based" structured products? In which cases do you think that some of these costs might not be known to the manufacturer? Which of these types of costs should be further defined?

<ESMA_QUESTION_PRIIPs_61>
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<ESMA_QUESTION_PRIIPs_61>

62. To what extent do you think these types of costs should be further defined and detailed?

<ESMA_QUESTION_PRIIPs_62>
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<ESMA_QUESTION_PRIIPs_62>

63. How would you estimate ex ante the spread referred to above in (b), in the case the product is listed as in the case it is not? Should maximum spreads, when available, be considered? Should the term "proportional fees" be further defined? Which definition would you suggest?

<ESMA_QUESTION_PRIIPs_63>
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<ESMA_QUESTION_PRIIPs_63>

64. Do you agree with the list of costs outlined above? Which types of costs would require more precise definitions? To what extent should the methodology be prescriptive in the definition and calculation methodologies of the different types of costs?

<ESMA_QUESTION_PRIIPs_64>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_PRIIPs_64>

65. Would you include other cost components?

<ESMA_QUESTION_PRIIPs_65>
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<ESMA_QUESTION_PRIIPs_65>

66. Under which hypothesis should the costs of the underlying be included?

<ESMA_QUESTION_PRIIPs_66>
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<ESMA_QUESTION_PRIIPs_66>

67. How would you deal with the issue of the amortization of the entry costs during the life of the product? For derivatives it will be notably important to define what the invested capital is, in order to calculate percentages. The possibilities include: the amount paid (i.e. option premium price or initial margin/collateral) or the exposure (to be defined for optional derivatives). Do you see other possible approaches on this specific point?

<ESMA_QUESTION_PRIIPs_67>
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<ESMA_QUESTION_PRIIPs_67>

68. Do you think that there are products with ongoing hedging costs (to ensure that the manufacturer is able to replicate the performance of the derivative component of the structured product)?

<ESMA_QUESTION_PRIIPs_68>
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<ESMA_QUESTION_PRIIPs_68>

69. Do you agree with the general framework outlined above?

<ESMA_QUESTION_PRIIPs_69>
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<ESMA_QUESTION_PRIIPs_69>

70. Which criteria should be chosen to update the values in the KID when input data change significantly?

<ESMA_QUESTION_PRIIPs_70>
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<ESMA_QUESTION_PRIIPs_70>

71. As the evolution of underlying asset/s should be taken into account, are there specific issues to be tackled with in relation to specific types of underlying? To what extent should the RTS be prescriptive on the risk premium?

<ESMA_QUESTION_PRIIPs_71>
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<ESMA_QUESTION_PRIIPs_71>

72. Are you aware of any other assumptions to be set?

<ESMA_QUESTION_PRIIPs_72>
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<ESMA_QUESTION_PRIIPs_72>

73. Having in mind that most of the applied models in banking are forward looking (e.g. using implied volatility instead of historical volatility) which are the pros and cons of backward looking approach and forward looking approach?

<ESMA_QUESTION_PRIIPs_73>
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<ESMA_QUESTION_PRIIPs_73>

74. Do you think that there are other risk free curves that could be considered?

<ESMA_QUESTION_PRIIPs_74>
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<ESMA_QUESTION_PRIIPs_74>

75. Do you think that there are other market data that could be used to determine the credit risk? Do you think that implied credit spreads from other issuer bonds (other than structured products) could be used?

<ESMA_QUESTION_PRIIPs_75>
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<ESMA_QUESTION_PRIIPs_75>

76. How would you determine the credit risk in the absence of market data and which are the criteria to identify the comparable?

<ESMA_QUESTION_PRIIPs_76>
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<ESMA_QUESTION_PRIIPs_76>

77. How would you include the counterparty risk in the valuation? Would you include specific models to include counterparty risk in valuation (CVA models)? How would you consider the counterparty risk for pure derivatives?

<ESMA_QUESTION_PRIIPs_77>
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<ESMA_QUESTION_PRIIPs_77>

78. In which circumstances do you think parameters cannot be computed/estimated using market data? What would you suggest to deal with this issue?

<ESMA_QUESTION_PRIIPs_78>
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<ESMA_QUESTION_PRIIPs_78>

79. Would it be meaningful to prescribe specific pricing models for structured products, derivatives and CFDs? If yes which are the pros and cons of parametric and non-parametric models?

<ESMA_QUESTION_PRIIPs_79>
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<ESMA_QUESTION_PRIIPs_79>

80. What should be the value of x? (in the case of UCITS, x=5, but the extent to which this is appropriate for other types of PRIIPs, notably life-insurance products, is unclear).

<ESMA_QUESTION_PRIIPs_80>
We note that the manufacturer is required to keep records of calculations for the Total Cost Ratio (TCR)/Reduction in Yield (RIY)/cumulative effect of costs figure for a period of x years after the last date on which that version of the KID was available to be issued. As private equity funds are closed-ended products it would not be appropriate to issue another KID after a fund is raised as the investor would not have redemption rights. The calculations would therefore only need to be maintained for the life of the fund (as established in the governing documents) following the issuance of the KID at the start of the fund raising process.
<ESMA_QUESTION_PRIIPs_80>

81. Should this principle be further explained / detailed? Should the terms "rank pari passu" be adapted to fit the different types of PRIIPs?

<ESMA_QUESTION_PRIIPs_81>
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<ESMA_QUESTION_PRIIPs_81>

82. What should be the relevant figure for the initial invested amount to be taken into account for the calculation of cost figures? Should a higher initial investment amount be taken into account not to overestimate the impact of fixed costs? How should the situation of products with regular payments be taken into account for that specific purpose? (Would an invested amount of 1 000 euros per period of time be a relevant figure?)

<ESMA_QUESTION_PRIIPs_82>
Investors in private equity funds commit an agreed amount of capital to invest at the outset of a fund and this is drawn down at various stages of the investment period (typically the first five years of a fund's life). This does not follow a set pattern i.e. the timings and amount of capital to draw down will depend on the investment being made. Therefore setting a relevant figure of €1,000 would be arbitrary in this case and low given the size of commitments usually made by investors in private equity funds.
<ESMA_QUESTION_PRIIPs_82>

83. For some life-insurance products, the costs will differ on the age of the customer and other parameters. How to take into account this specific type of PRIIPs for the purpose of aggregating the costs? Should several KIDs for several ages be considered?

<ESMA_QUESTION_PRIIPs_83>
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<ESMA_QUESTION_PRIIPs_83>

84. Do you agree with the abovementioned considerations? Which difficulties do you identify in the annualisation of costs?

<ESMA_QUESTION_PRIIPs_84>
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<ESMA_QUESTION_PRIIPs_84>

85. Which other assumptions would be needed there? In the case of life-insurance products, to what extent should the amortization methodology related to the amortization

methodology of the premium calculation? To what extent should the chosen holding period be related to the recommended holding period?

<ESMA_QUESTION_PRIIPs_85>
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<ESMA_QUESTION_PRIIPs_85>

86. This definition of the ratio is taken from the CESR guidelines on cost disclosure for UCITS. Is it appropriate also in the case of retail AIFs? Should it be amended? Another approach to calculate these costs is to calculate the ratio of the total of these amortized costs to the invested amount in the fund. However in that case the question remains as to how to aggregate this ratio with the on-going charges ratio. Another possible approach could be to use the ratio between the total amount of costs over the holding period and the average net investment (assumed during the whole period, in order to take into account future additional investments, partial withdrawals, payments (i.e. programmed investments or disinvestments)). Do you think this approach would be appropriate?

<ESMA_QUESTION_PRIIPs_86>
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<ESMA_QUESTION_PRIIPs_86>

87. What would be other options to define the TCR ratio in the case of life-insurance products? What about the case of regular payments or regular increasing? Which definition would you favour? How to ensure a level playing field and a common definition with the other types of PRIIPs in this regard? Another possible approach could be to use the ratio between the total amount of costs over the holding period and the average net investment (assumed during the whole period, in order to take into account future additional investments, partial withdrawals, payments (i.e. programmed investments or disinvestments)). Do you think this approach would be appropriate? To what extent do these possible calculation methodologies fit the case of insurance products with regular payments?

<ESMA_QUESTION_PRIIPs_87>
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<ESMA_QUESTION_PRIIPs_87>

88. What would be other options to define the TCR ratio in the case of structured products? Do you identify other specific issues in relation to the TCR if applied to structured products? Another possible approach could be to use the ratio between the total amount of costs over the holding period and the average net investment (assumed during the whole period, in order to take into account future additional investments, partial withdrawals, payments (i.e. programmed investments or disinvestments)). Do you think this approach would be appropriate? For derivatives, it might be the case that it is necessary to further define the concept of investment to be used as denominator of the ratio. Possibilities include the use of the actual sums paid and received (i.e. initial margins, variation margins, collateral postings, various payoffs, etc.) or the

use of the exposure (i.e. market value of the derivative underlying). Do you think these approaches would be appropriate?

<ESMA_QUESTION_PRIIPs_88>
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<ESMA_QUESTION_PRIIPs_88>

89. This definition of the ratio is taken from the CESR guidelines on cost disclosure for UCITS. Is it appropriate also in the case of retail AIFs? Should it be amended? Another possible approach could be to use the ratio between the total amount of costs over the holding period and the average net investment (assumed during the whole period, in order to take into account future additional investments, partial withdrawals, payments (i.e. programmed investments or disinvestments)). Do you think this approach would be appropriate?

<ESMA_QUESTION_PRIIPs_89>
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<ESMA_QUESTION_PRIIPs_89>

90. These different aforementioned principles are taken from the CESR guidelines on cost disclosure for UCITS. Is it also appropriate in the PRIIPs context?

<ESMA_QUESTION_PRIIPs_90>
While the methodology proposed in the discussion paper for the calculation of the TCR for new funds appears reasonable when calculating costs, further thought is needed on how to determine the denominator in the ratio for private equity funds. This is because it is difficult to determine what an average net investment, average net assets or invested amount could be as these all vary over the life of the fund. As explained above, capital will be drawn down and invested at various stages and there is no set pattern on the timings of cash flows. Therefore a RIY approach may be more suitable for private equity funds and managers often present their returns as IRRs both gross and net of fees.
<ESMA_QUESTION_PRIIPs_90>

91. To what extent do the principles and methodologies presented for funds in the case of on-going charges apply to life-insurance products?

<ESMA_QUESTION_PRIIPs_91>
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92. **Do you think this methodology should be further detailed? To what extent do you think this methodology is appropriate and feasible (notably in terms of calibration of the model)? It might indeed be considered that valuation models for Solvency II usually are not likely to be designed for per contract calculations. Life insurers may restrict the calculation of technical provisions in the Solvency II-Balance-Sheet to homogenous risk groups. Furthermore they are allowed to use simplified calculation methods if the error is immaterial at the portfolio level. As profit sharing mechanisms in many countries are applied on the company level and not on a per contract level, projected cash flows from future discretionary benefits will not easily be broken down on a per product or even a per contract basis with the existing Solvency II-Valuation-Models.**

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93. Do you identify any specific issue in relation to the implementation of the RIY approach to funds?

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94. In addition to the abovementioned issues and the issues raised in relation to TCR when applied to structured products, do you identify any other specific issue in relation to the implementation of the RIY approach to structured products?

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95. Do you agree with the above-mentioned assessment? Should the calculation basis for returns be the net investment amount (i.e. costs deducted)? Do you identify specific issues in relation to the calculation per se of the cumulative effect of costs?

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96. Is this the structure of a typical transaction? What costs impact the return available to purchasers of the product?

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97. What costs impact the return paid on the products?

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98. What are the potential difficulties in calculating costs of an SPV investment using a TCR approach?

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99. What are the potential difficulties in calculating costs of an SPV investment using a RIY approach?

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