

FOLLOW UP ON ESA'S FEEDBACK STATEMENT ON AMENDMENTS TO THE PRIIPS KID AMAFI Position

AMAFI* (The French Association for Financial Markets) has always paid a close attention to discussions about the elaboration and the implementation of PRIIPs. In particular, the Association is keen to provide its input once more to the debate being held by the ESAs Joint Committee on amendments to the PRIIPs KID. Reflecting activities of its membership, AMAFI focuses on structured and derivatives products.

AMAFI's key messages on amendments to the PRIIPs KID are the following:

1. AMAFI shares the acknowledgement that changes are needed to correct dysfunctions of current framework.

In particular, it is essential to avoid misleading and confusing information via KIDs resulting mainly from results of performance scenarios and presentation of costs.

However,

2. AMAFI has more and more concerns on change management of PRIIPs framework.

The implementation of this regulation required significant and heavy investments (both in terms of human and IT resources) started a few years ago to be ready by 1st January 2018. Since that date, manufacturers have also deployed significant resources to implement PRIIPs, draft and disseminate all KIDs but also to explain to their distributors and/or customers the content and scope of this new document. Before and since then, manufacturers had to closely follow up the evolutions of the framework including all publications of level 3 measures and adapt consequently their systems and procedures to integrate those elements.

As a substantial change of the framework is now contemplated, it is critical that all stakeholders take sufficient care about both the management change costs for manufacturers as well as distributors and as well providing them more legal and regulatory security and certainty.

* **Association française des marchés financiers (AMAFI)** is the trade organisation working at national, European and international levels to represent financial market participants in France. AMAFI members consist of investment firms and credit institutions (French, European and global firms), operating in and/or from France (corporate and investment banks (CIBs), brokers-dealers, exchanges, and private banks). **AMAFI is deeply involved in all regulatory matters that concern financial instruments (MiFID, PRIIPs, intervention measures and product bans, AMF framework on product complexity, etc.). As far as financial products are concerned, we mostly represent all issuers/manufacturers of products (CIBs) and, through our private bank members, distributors as well. AMAFI has more than 140 members operating in equities and fixed-income and interest rate products, as well as commodities, derivatives and structured products for both professional and retail clients.**

Timeline to implement changes

Any important change would need a reasonable period of time to be enforceable that would be in our view at least 18 months from the final new text is published and ideally aligned with the regime for UCITS funds applicable on 31/12/2021. The greater the change would be, the longer time firms would need to implement the new framework.

A transparent, clear and reasonable timeline of any changes is absolutely necessary. Manufacturers need to have a better visibility of the changes contemplated together with its timeline to be prepared for implementation.

Consultation with experts from the industry and consumer testing

Any change would need to be submitted for discussion within industry representatives, before made final to ensure that the implementation is feasible and that the information to be provided within new KIDs is accurate. Also, such change would need to be properly tested with retail investors before made final to ensure that the information provided within new KIDs is genuinely improved.

More regulatory stability is needed

Any important change that would be decided now should not be questioned, again, in a couple of years even with the future revision of level 1 text.

Grandfathering required for existing KIDs

If there are substantial changes to the format of performance scenarios and cost, this will cause considerable problems for “old PRIIPs” issued prior to the application date of the future new delegated regulation because the IT technologies used to update them would not be compatible with the generation of “new PRIIPs” in a different format. To cater for this legal risk, AMAFI suggests to provide legal certainty that the current format for PRIIPs issued prior to the future new delegated regulation, remains valid without the requirement to amend they format until their maturity. Otherwise, manufacturers would improperly and solely incur additional costs supporting those regulatory fixes.

3. On performance scenarios, AMAFI shares some of the criticisms made towards the current methodology.

It is challenging for retail investors, especially those are the less sophisticated, to perfectly understand in some cases the current performance scenarios. Also, results as displayed today are not satisfactory because in some cases those are too optimistic, due to the incorporation of historical drift (positive due to the equity markets over the last 5 years).

Overly optimistic performance scenarios

The issue of too optimistic results could be tackled by removing the historical drift in the current methodology in addition with a premium risk defined by asset class.

AMAFI considers that the level of prescription needed in the regulation to achieve objective of total comparability makes any alternative methodologies challenging in that respect. For instance, a methodology that aims at illustrating different possible results irrespective of their probability but depending on hypothetical evolution of the underlying would be probably easier to understand and could provide more satisfactory results overall but will necessary result into different approaches among manufacturers (using different hypothesis).

AMAFI would like to recall that we are opposed to graphical illustration for scenarios as per our reply to the Consultation of November 2018 ([AMAFI / 18-69](#)).

AMAFI is supportive of explanatory notes to be added under the current performance scenarios' table. This could take the form of a free text describing the cash flow that occurred in the specific scenario.

No past performance

For the avoidance of any doubt, AMAFI wishes to recall that past performance does not exist for Category I, Category III, and MOPs which do not have price history prior to their issue date. AMAFI also disagree with proposals to simulate past performance for structured and derivatives products due to potential selection bias which could favour PRIIPs specifically designed to perform well in a given historical period. Above all, such simulation would be very difficult to explain to retail investors if not providing them misleading information.

4. On the presentation of costs, AMAFI understands the concerns rose towards the current PRIIPs Reduction in Yield methodology.

The concept of costs as expressed in the KIDs causes confusion and misunderstanding for retail investors. The "costs" presented in the KIDs are not the costs of the product as commonly understood by the statement "total costs" but actually displays a Reduction in Yield (RiY) which is non-intuitive and unintelligible for most retail investors. Confusion is added with the disclosure of costs and charges provided in compliance with MiFID II which represent a total of raw costs of the product costs and not a RiY as it is in KIDs.

To avoid this confusion, AMAFI proposes to replace the RiY by the disclosure of an **annualized* "total expense ratio" (TER)** which will be consistent with MiFID II. Moreover, it seems essential for the good understanding of retail investors to use the same methodology into the two tables (*i.e.* require for both to disclose annualised* costs) to allow investors, by adding the amounts presented in Table 2 to find the amount presented in Table 1.

Table 1 cost over time table should be fully renamed

Investment EUR 10 000	If you cash in after 1 year	If you cash in after 3 years	If you cash in at RHP
Total cumulative cost	EUR Y	EUR Y	EUR Y
Total Expense Ratio (TER) expressed in % per annum			

Table 2 should be amended to ensure annualized* entry/ongoing and exit costs are displayed using the total expense ratio (TER) method in that all items are expressed in annualized* terms to ensure comparability between products with different recommended holding periods.

This table shows the annualized* costs of the product			
One off costs	Entry cost	x%	The impact of entry costs and already included in the price. (expressed per annum)
	Exit costs	x%	The impact of costs of exiting your investment when it matures (expressed per annum)
Ongoing costs	Portfolio transaction costs	x%	The impact of costs of buying and selling underlying investments for the product (expressed per annum)
	Other ongoing costs	x%	The impact of the costs that we take are taken each year for managing your investment (expressed per annum)

Incidental costs	Performance fees	EU R X	The impact of performance fees (expressed per annum). We take these from you investment if the product outperforms its benchmark.
	Carried Interests	x%	The impact of carried interests (expressed per annum).

* Except for PRIIPs with RHP under 1 year that will not have costs expressed with annualization.

