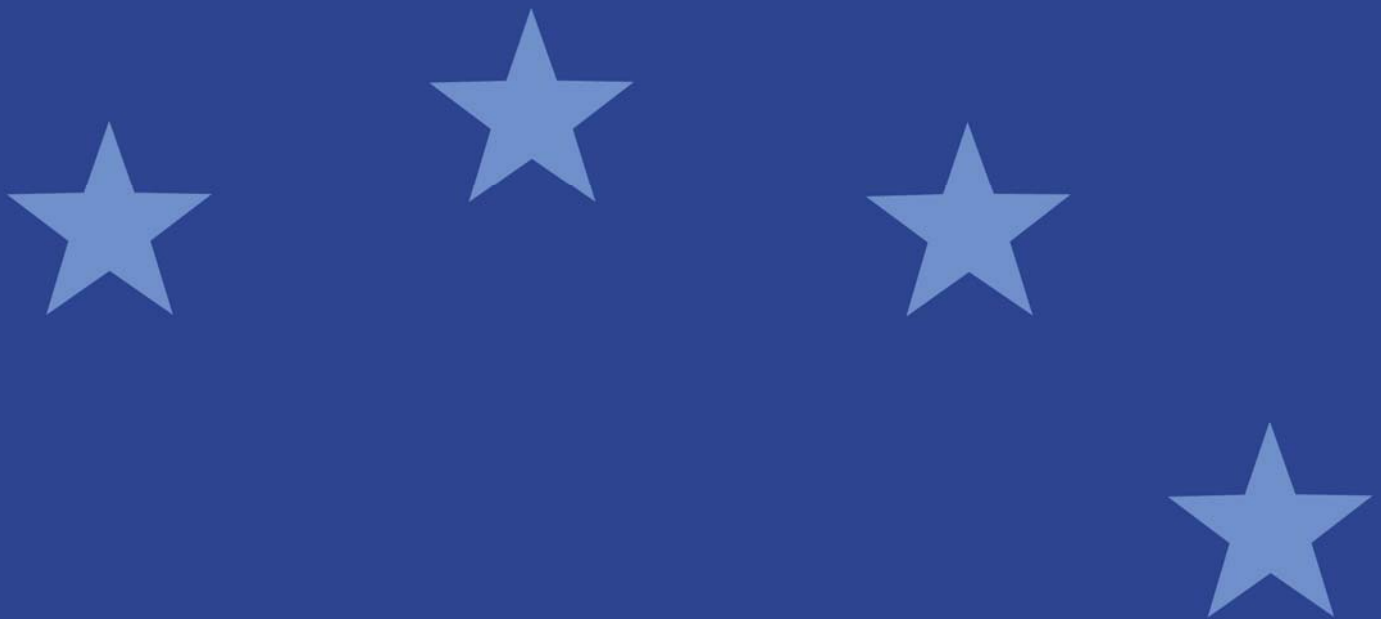




European Securities and
Markets Authority

Reply form for the Consultation Paper on PRIIPs Key Information Documents



Responding to this paper

The European Securities and Markets Authority (ESMA) invites responses to the specific questions listed in the ESMA Consultation Paper on PRIIPs Key Information Documents, published on the ESMA website.

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 to ESMA so as to allow us to process it properly. Therefore, ESMA 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 ESMA should consider

Naming protocol

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

ESMA_ PRIIPS _NAMEOFCOMPANY_NAMEOFDOCUMENT.

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

ESMA_ PRIIPS_XXXX_REPLYFORM or

ESMA_ 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 **29 January 2016**.

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 end of the consultation period, unless otherwise requested. **Please clearly indicate by ticking the appropriate checkbox in the website submission form if you do not wish your contribution to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure.** Note also that a confidential response may be requested from us in accordance with ESMA's rules on access to documents. We may consult you if we receive such a request. Any decision we make is reviewable by ESMA's Board of Appeal and the European Ombudsman.

Data protection

Information on data protection can be found at www.esma.europa.eu under the headings 'Legal notice' and 'Data protection'.



Introduction

Please make your introductory comments below, if any:

<ESMA_COMMENT_PRIIPS_1>

As Germany's most important NGO of consumer protection related to private insurances (with about 50.000 individual members) we would like to thank the ESAs for the opportunity to publish comments on this consultation.

Our organization - by its statutes - is exclusively focused on private insurances and on private pension products. Therefore we give comments only on questions linked to insurance-based investment products. We already participated at the ESAs Joint Discussion Paper (JDP) on KIDs for PRIIPs in February 2015 and at the ESAs Technical Discussion Paper (TDP) on PRIIPs in August 2015 which we refer to in this consultation with some questions.

<ESMA_COMMENT_PRIIPS_1>



Question 1

Would you see merit in the ESAs clarifying further the criteria set out in Recital 18 mentioned above by way of guidelines?

<ESMA_QUESTION_PRIIPS_1>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_PRIIPS_1>

Question 2

- (i) Would you agree with the assumptions used for the proposed default amounts? Are you of the opinion that these prescribed amounts should be amended? If yes, how and why?*
- (ii) Would you favour an approach in which the prescribed standardised amount is the default option, unless the PRIIP has a known required investment amount and price which can be used instead?*

<ESMA_QUESTION_PRIIPS_2>

As we had already pointed out in our comment to Q82 of the TDP on PRIIPs in August 2015, we propose that related to insurance based products with a single contribution the reference parameter should be 10.000. We agree upon the regular amount of 1000 Euro for a yearly premium.

We agree as well upon an approach in which the prescribed standardized amount is the default option, unless the PRIIP has a known required investment amount and price which can be used instead.

<ESMA_QUESTION_PRIIPS_2>

Question 3

For PRIIPs that fall into category II and for which the Cornish Fisher expansion is used as a methodology to compute the VaR equivalent Volatility do you think a bootstrapping approach should be used instead? Please explain the reasons for your opinion?

<ESMA_QUESTION_PRIIPS_3>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_PRIIPS_3>

Question 4

Would you favour a different confidence interval to compute the VaR? If so, please explain which confidence interval you would use and state your reasons why.

<ESMA_QUESTION_PRIIPS_4>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_PRIIPS_4>

Question 5

Are you of the view that the existence of a compensation or guarantee scheme should be taken into account in the credit risk assessment of a PRIIP? And if you agree, how would you propose to do so?

<ESMA_QUESTION_PRIIPS_5>

Related to insurance-based investment products we already pointed out that credit events are not relevant (cf. our comment on Q20 of ESAs TDP on PRIIPs, August 2015). That is the reason why the existence of a compensation or guarantee scheme should not be taken into account in the credit risk assessment.



<ESMA_QUESTION_PRIIPS_5>

Question 6

Would you favour PRIIP manufacturers having the option to voluntarily increase the disclosed SRI? In which circumstances? Would such an approach entail unintended consequences?

<ESMA_QUESTION_PRIIPS_6>

Yes, especially if we keep the proposed method for calculating the SRI (see answer Q8 below by Better Finance).

Additionally we would like to emphasize that related to private pension products or long-term retirement saving plans in July 2015 the Fraunhofer Institute for Industrial Mathematics (directed by Professor Ralf Korn, University of Kaiserslautern) has been given a new responsibility. It will fulfill its new function as Product Information Centre for Pensions (PiA) in Germany. The role of the PiA is to simulate the performance of State subsidized pension plans and rate them in terms of risks and opportunities.

So we strongly recommend to take into consideration the research work and the practical experiences by this Fraunhofer Institute, in order to choose the model parameters for the purposes of calculating a risk measure by the future regulatory technical standards. The PiA has to establish the technique of calculating an accumulated cost-measure as well.

New provisions related to risk-reward-classes and to the disclosure of costs, which shall be used for “product information sheets” of state-subsidized pension plans, were recently adopted by the German legislator (cf. “Altersvorsorge-Produktinformationsblattverordnung” – AltvPIBv - articles 5 and 7, in: Bundesgesetzblatt, Jahrgang 2015, Teil I, Nr. 32 am 31. Juli 2015).

<ESMA_QUESTION_PRIIPS_6>

Question 7

Do you agree with an adjustment of the credit risk for the tenor, and how would you propose to make such an adjustment?

<ESMA_QUESTION_PRIIPS_7>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_PRIIPS_7>

Question 8

Do you agree with the scales of the classes MRM, CRM and SRI? If not, please specify your alternative proposal and include your reasoning.

<ESMA_QUESTION_PRIIPS_8>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_PRIIPS_8>

Question 9

Are you of the opinion that for PRIIPs that offer a capital protection during their whole lifespan and can be redeemed against their initial investment at any time over the life of the PRIIP a qualitatively assessment and automatic allocation to MRM class 1 should be permitted?

Are you of the opinion that the criteria of the 5 year tenor is relevant, irrespective of the redemption characteristics?

<ESMA_QUESTION_PRIIPS_9>

May be that there are PRIIPs without any insurance risk coverage which can be redeemed against their initial investment at any time over their lifespan. But this is still not possible for insurance-based investment products, because any capital guarantees which have been given are linked to the obligation for the customer to pay his premiums until maturity. This is the reason why, as we had already pointed out in our comment on Q6 of this consultation, related to insurance-based investment products the most important “risk” for consumers are costs (mainly high entry costs, often caused by the zillmerisation method, and exit costs or penalty fees in the case of early withdrawal).

That is why - related to insurance-based investment products - we propose to align the MRM class following the degree of possible losses caused by costs. In Germany the minimum surrender value of a life or annuity insurance is about 40% of the premiums already paid (by judgements of the Federal Court of Justice – Bundesgerichtshof, and by the German Insurance Contract Law – VVG since 2008).

<ESMA_QUESTION_PRIIPS_9>

Question 10

Are you aware of other circumstances in which the credit risk assessment should be assumed to be mitigated? If so, please explain why and to what degree it should be assumed to be mitigated?

<ESMA_QUESTION_PRIIPS_10>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_PRIIPS_10>

Question 11

Do you think that the look through approach to the assessment of credit risk for a PRIIP packaged into another PRIIP is appropriate?

<ESMA_QUESTION_PRIIPS_11>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_PRIIPS_11>

Question 12

Do you think the risk indicator should take into account currency risk when there is a difference between the currency of the PRIIP and the national currency of the investor targeted by the PRIIP manufacturer, even though this risk is not intrinsic to the PRIIP itself, but relates to the typical situation of the targeted investor?

<ESMA_QUESTION_PRIIPS_12>

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<ESMA_QUESTION_PRIIPS_12>

Question 13

Are you of the opinion that the current Consultation Paper sufficiently addresses this issue? Do you it is made sufficiently clear that the value of a PRIIP could be significantly less compared to the guaranteed value during the life of the PRIIP? Several alternatives are analysed in the Impact Assessment under policy option 5: do you see any additional analysis for these assessment?

<ESMA_QUESTION_PRIIPS_13>

Related to insurance-based investment products (long-term life and annuity insurance contracts) it is not made sufficiently clear that the value of a PRIIP could be significantly less compared to the guaranteed value during the life of the PRIIP. These contracts have a very high risk of early withdrawal (cf. our comment on Q21 of ESAs TDP on PRIIPs in August 2015) and mandatory exit fees reduce severely the current value of the PRIIP (cf. our comment on Q6 of this consultation).

That is why we clearly advocate the option 5. 2 “multiple time frames” (JCP, p. 107). In Germany the current development of surrender and maturity values during the life-time of the contract have regularly to be reported to the customer (cf. our comment on Q46 and Q52 of TDP on PRIIPs in August 2015).

<ESMA_QUESTION_PRIIPS_13>

Question 14

Do you agree to use the performance fee, as prescribed in the cost section, as a basis for the calculations in the performance section (i.e. calculate the return of the benchmark for the moderate scenario in such a way that the return generates the performance fee as prescribed in the cost section)? Do you agree the same benchmark return should be used for calculating performance fees for the unfavourable and favourable scenarios, or would you propose another approach, for instance automatically setting the performance fees to zero for the unfavourable scenario? Please justify your proposal.

<ESMA_QUESTION_PRIIPS_14>

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<ESMA_QUESTION_PRIIPS_14>

Question 15

Given the number of tables displayed in the KID and the to a degree mixed consumer testing results on whether presentation of performance scenarios as a table or a graph would be most effective, do you think a presentation of the performance scenarios in the form of a graph should be preferred, or both a table and a graph?

<ESMA_QUESTION_PRIIPS_15>

The main problem is not the display, but the way scenarios are calculated and selected. A graph may be more intelligible as long as key numbers are still mentioned on it to allow comparison between several PRIIPS (and provided scenarios used are the same).

<ESMA_QUESTION_PRIIPS_15>

Question 16

Do you agree with the scope of the assets mentioned in paragraph 25 of Annex VI on transaction costs for which this methodology is prescribed? If not, what alternative scope would you recommend?



<ESMA_QUESTION_PRIIPS_16>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_PRIIPS_16>

Question 17

Do you agree with the values of the figures included in this table? If not, which values would you suggest? (please note that this table could as well be included in guidelines, to allow for more flexibility in the revision of the figures)

<ESMA_QUESTION_PRIIPS_17>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_PRIIPS_17>

Question 18

Do you agree that the monetary values indicated in the first table are a sum of costs over the respective holding periods? Or should the values reflect annualized amounts? If you prefer annualized amounts, which method for annualisation should be used (e.g. arithmetic average or methods that consider discounting effects)?

<ESMA_QUESTION_PRIIPS_18>
We strongly support a sum of costs over the respective holding periods because clear sums are most informative to consumers. With respect to the figure of the reduction in yield (RIY) it is absolutely needless and redundant to reflect annualized amounts.
<ESMA_QUESTION_PRIIPS_18>

Question 19

Do you think that estimating the fair value of biometric risk premiums as stated in paragraph 55(b) of Annex VI would raise any technical or practical difficulties?

<ESMA_QUESTION_PRIIPS_19>
Instead of using the “best estimate assumptions” for the calculation of the fair value of Biometric Risk Premium, we propose the actually calculated biometric costs as reference parameter. This is more appropriate (not only an estimation, but actually used figures), and any possible technical or practical difficulties will be excluded consequently.
<ESMA_QUESTION_PRIIPS_19>

Question 20

Knowing that the cost element of the biometric risk premium is included in the total costs calculation, how do you think the investor might be most efficiently informed about the other part of the biometric risk premium (i.e. the fair value), and/or the size of biometric risk premium overall? Do you consider it useful to include the fair value in a separate line in the first table, potentially below the RIY? Or should information on the fair value be disclosed in another part of the KID (for instance, the “What is this product?” section, where the draft RTS currently disclose biometric risk premiums in total, and/or in the performance section)?

What accompanying narrative text do you think is needed, and where should this be placed, including specifically narrative text in the cost section?

<ESMA_QUESTION_PRIIPS_20>

In order to inform the investor most efficiently about the included risk premiums, the current system of “unitary premium” for life insurances must be overruled. Instead of a “unitary premium” the premium has to be split up into three components: the risk component (part of premium linked to risk coverage mainly death and disability), the administration component (part of premium linked to costs of sale and of long-term administration and service), the capital component (part of premium which is invested as savings of the customers).

The narrative text explaining the three components (as shown above) should be part of the “What is the product” section. Most customers do not know anything about the implicate tripartition of the premium, so mistakenly they believe that the entire premium, not just the investment part of the premium will actually be invested.

It is difficult to neatly inform the investor about the costs of his probable longevity (as “fair value” outlined in Euro and Cent). But the investor should be informed about the longevity, which is actually assumed by the life insurer, and the biometric costs, which are actually calculated. If optional, the biometric risk coverage should be priced separately as a non-mandatory option.

<ESMA_QUESTION_PRIIPS_20>

Question 21

Given evidence as to the difficulties consumers may have using percentage figures, would you prefer an alternative presentation of the second table, solely using monetary values instead? As with the first table, please also explain what difficulties you think might arise from calculating monetary values, and whether this should be on an annualized basis, and if so, how?

<ESMA_QUESTION_PRIIPS_21>

KIDs for insurance products should always include absolute figures (especially guaranteed amounts and performance scenarios of surplus / benefits.) Related to life insurances and annuities, the guaranteed amounts are more important than the performance scenarios of more or less probable benefits (cf. our comment on Q9 of ESAs JDP on KIDs for PRIIPs in February 2015).

<ESMA_QUESTION_PRIIPS_21>

Question 22

Given the number of tables shown in the KID, do you think a more graphic presentation of the breakout table should be preferred?

<ESMA_QUESTION_PRIIPS_22>

Yes, we agree upon this graphical breakdown presentation (as shown on page 14 of JCP).

<ESMA_QUESTION_PRIIPS_22>

Question 23

The example presented above includes a possible way of showing the variability of performance fees, by showing the level for all three performance scenarios in the KID, highlighting the ‘moderate’ scenario, which

would be used for the calculation of the total costs. Do you believe that this additional information should be included in the KID?

<ESMA_QUESTION_PRIIPS_23>

Yes, this additional information should be included in the KID. In new categories of unit-linked PRIIPs or in PRIIPs with other “new” guarantees which are not linked to an ongoing minimum interest rate, performance fees for investment part of the premiums are a new phenomenon. That is why we advocate adding performance fees to the types of costs (cf. our comment on Q58 for TDP on PRIIPs in August 2015).

<ESMA_QUESTION_PRIIPS_23>

Question 24

To reduce the volume of information, should the first and the second table of Annex VII be combined in one table? Should this be supplemented with a breakdown of costs as suggested in the graphic above?

<ESMA_QUESTION_PRIIPS_24>

No, we do not agree. The first and the second table of Annex VII should be left separated, because each of them contain a distinct information.

Yes, this should be supplemented with a breakdown of costs as suggested in the proposed graphic.

Following to article 29 of IDD (Information to customers) the information about all costs and charges shall allow the customer to understand the overall costs as well as the cumulative effect on the return of the investment, and, “where the customer so requests, an itemised breakdown of the costs and charges shall be provided”.

Related to the format for the presentation of the performance (cf. JDP Annex V, Appendix 1, p. 55-56) we suggest choosing option c (instead of a or b), we agree upon options d, e and f, and we suggest choosing option g (instead of h or i), at least for insurance-based investment products.

<ESMA_QUESTION_PRIIPS_24>

Question 25

In relation to paragraph 68 a) of Annex VI: Shall the RTS specify that for structured products calculations for the cost free scenario have always to be based on an adjustment of the payments by the investor?

<ESMA_QUESTION_PRIIPS_25>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_PRIIPS_25>

Question 26

Regarding the first table of the cost section presented in Annex VII, would you favour a detailed presentation of the different types of costs, as suggested in the Annex, including a split between one-off, recurring and incidental costs? Alternatively, would you favour a shorter presentation of costs showing only the total costs and the RIY?

<ESMA_QUESTION_PRIIPS_26>

We already have elucidated why we do not think, RiY is an appropriate parameter for the calculation of costs of PRIIPs (cf. our comment on Q20 of JDP on KIDs for PRIIPs in February 2015). We even proposed an alternative calculation method (“Reduction in Wealth”, cf. our comment on Q87 of TDP on PRIIPs in August 2015).

Therefore we strongly recommend opting for a detailed presentation of the different types of costs, as suggested in Annex VII of JCP, including a split between one-off, recurring and incidental costs.

<ESMA_QUESTION_PRIIPS_26>

Question 27

Regarding the second table of the cost section presented in Annex VII, would you favour a presentation of the different types of costs showing RIY figures, as suggested in the Annex, or would you favour a presentation of costs under which each type of costs line would be expressed differently, and not as a RIY figure - expressed as a percentage of the initial invested amount, NAV, etc.?

<ESMA_QUESTION_PRIIPS_27>

We already have elucidated why we do not think, RiY is an appropriate parameter for the calculation of costs of PRIIPs (cf. our comment on Q20 of JDP on KIDs for PRIIPs in February 2015). We even proposed an alternative calculation method (“Reduction in Wealth”, cf. our comment on Q87 of TDP on PRIIPs in August 2015).

That is the reason why we strongly recommend a different figure for the percental presentation of total costs: Reduction in wealth or percentage of the initial invested amount.

<ESMA_QUESTION_PRIIPS_27>

Question 28

Do you have any comments on the problem definition provided in the Impact Assessment?

Are the policy issues that have been highlighted, in your view, the correct ones? If not, what issues would you highlight?

Do you have any views on the identified benefits and costs associated with each policy option?

Is there data or evidence on the highlighted impacts that you believe needs to be taken into account?

Do you have any views on the possible impacts for providers of underlying investments for multi-option products, and in particular indirect impacts for manufacturers of underlying investments used by these products, including where these manufacturers benefit from the arrangements foreseen until the end of 2019 under Article 32 of the PRIIPs Regulation?

Are there significant impacts you are aware of that have not been addressed in the Impact Assessment? Please provide data on their scale and extent as far as possible.

<ESMA_QUESTION_PRIIPS_28>

Related to performance scenarios we regret that the Monte Carlo simulation as a form of presentation was not chosen (cf. our comments on Q10, 11 and 13 of the JDP on KIDs for PRIIPs in February 2015; our comment on Q15 of the TDP on PRIIPs in August 2015; cf. JCP, p. 90 and p. 111, option 8.2).

Following to article 6 of the PRIIPs Regulation (1286/2014) the pre-contractual information given by the KID must be “accurate, fair, clear and not-misleading”. In order to fulfill this requirement, we stress again that any assumptions on future profit participations must “not be based on unreasonably optimistic assumptions that will overstate the likely potential of the PRIIP”. These assumptions shall be “consistent with the assumption on the annual rates of return of the underlying assets”, and they shall be “realistic and in line with the current business practice and business strategy of the manufacturer” (cf. JDP, p. 52). “Historical product performance” is one essential element for the realistic analysis of market conditions (cf. JDP, p. 51), which undoubtedly are available for insurance-based investment products.

Related to specific requirements for insurance-based investment products, especially to their profit participation via cost bonuses (JCP, p. 70, paragraph 71), we agree upon the requirement that they have to be declared separately from other parts of participation bonus (in Germany this is already fixed by law). But besides the fact that they may be considered as cost rebate (for consumers), we stress again that these costs may be a source of additional benefits for the life insurers as well (cf. our comment on Q16 of JDP on KIDs for PRIIPs in February 2015). This “double” effect of prudential assumptions on future costs and on future profits must clearly be disclosed, if not in the KID at least in additional documents to which the KID should refer to.

Related to summary cost indicator of insurance-based investment products and their biometric risk premiums, we favour policy option 4.1 (JCP, p. 117) including the costs of Biometric Risk Premium. We agree upon the contra-statement that a secondary “breakout” may be more complex for consumers to understand. Additionally this option might not be fully in line with the level 1 PRIIPs Regulation.

As we had already pointed out in our comment on Q6 of this consultation the most important “risk” for consumers are costs. Costs reduce the amount actually invested (investment part of premium) from the very beginning of the contract, consequently even with an excellent “intrinsic performance” of the chosen PRIIP the maturity value will considerably be reduced at the end of the product life-cycle (by effect of compound interest). That is why the comprehensive disclosure of costs just in one summary indicator is essential from the consumer’s perspective.

<ESMA_QUESTION_PRIIPS_28>

