ESAs - Risposta consultazione in materia di PRIIPs KID

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Introduction

Assogestioni[1] welcomes this new opportunity to express views about the future of PRIIPs regulation. We fully appreciate the huge effort undertaken by ESAs to address very complex topics and revise a document that is meant, first, to enhance retail investors' understanding of a particular product and, second, to allow investors to compare different products and different types of products.

We very much welcome the proposals to include the presentation of costs and past performance used in the UCITS KIID in the PRIIPs KIID and which may feasible to meet MiFID disclosure obligations. However, let us mention that we have also strong concerns about the ESAs favourite solution regarding the key elements of the PRIIPs KID related to performance scenarios and costs as we consider it would not be beneficial for all actors, especially if UCITS KIID is phased-out.

We fully understand the timing constraints placed on the ESAs, nevertheless we caution against a too rushed process that could lead to unworkable or not appropriate proposals. As regards the scenario proposal, the ESAs appear to be aware that the methodology based on the dividend yield approach is onerous and complex and not been fully back-tested across different types of products. On the costs side, four type of presentations, that increase the number of cost points, from the current 12 up to 32, should give investors an appropriate presentation of costs, but the final results may become incomprehensible for the average investor. On the transaction costs calculation, the slippage method is still maintained, but its more flawed effect is removed to avoid transaction costs becoming negative and therefore not understandable by investor (as they would become a revenue and not a cost any longer). This is simply masking the conceptual flaw and practical implications.

In addition, the proposed amendment to the PRIIPs KID should be tested with the consumer, to understand if the revised document is fit for purpose. Consumer testing is key here to understand the preferences and interpretation of the retail investor, but the current consumer testing, being undertaken in parallel by the European Commission, deals only with the illustration of the performance scenarios and not the whole (revised) PRIIPs KID.

A potentially unsuitable PRIIPs KID is a source of deep concern for us as we have an extremely positive experience with the very simple, but fair pre-contractual information given to investors through the UCITS KIID, a document that it is expected to be dismissed at the end of 2021.

In this context, we would like to insist on the fact that technical choices should be based on proved, tested, well understood and clear techniques. Indeed, even if the discussion is intellectually interesting, PRIIPs is not the place for experimentation. Focusing too much on providing comparable

information between widely different investment products, the information presented is in same case irrelevant at best and misleading at worst. We strongly believe that in the face of such a challenge, the objective cannot be to get the “perfect solution”, but a solution which is “understandable, not misleading, not increasing asymmetry” for investors and that is cost effective for all PRIIPs manufactures, included asset managers.

A more comprehensive review of the PRIIPs should start with the appropriate review of the PRIIPs Regulation (in the light also of the MiFID II experience) by the European Commission.

Therefore, please find here below our recommendations.

With specific regards to the review of level 1 legislation that ESAs should consider requesting, we recommend the ESAs the following.

- review the “concept” of the appropriate performance scenario, since future estimation are always challenging (art. 8(3)(d)(iii) PRIIPs);
- exclude from the “total aggregate cost” indicator the type of costs coming from (also) actively managed investment funds that cannot be precisely calculated neither ex-ante (transaction costs and performance fees) nor ex-post (implicit transactions costs) and ask for a separate disclosure (in line with performance fee disclosure under the UCITS KIID) (art. 8(3)(f) PRIIPs);
- provide, if necessary, the legal basis for the regular updating by the ESAs of common reference parameters for example a spread table for transaction costs calculation and the standard growth rates, if the dividend methodology would be requested;
- **align the obligation to provide PRIIP KIDs in the context of regular saving plans with the current supervisory practice under the UCITS framework** (art. 13(4) PRIIPs).

With specific regards to the Delegated Regulation, we recommend the ESAs the following:

- (continue) to keep the illustration of the historical returns (where appropriate): experience with the UCITS KIID shows that investors wish to see the product’s history of returns;
- should a performance quantitative scenario still be required, extend the historical return series used in the actual method from 5 to, at least, 10 years. Further improvements of estimation may simply require an adjustment to reflect the current risk-free rate. Supplementary alternatives are included in our response: scenario based on historical observations, volatility based Sharpe risk premia and - as a last resort -standardised growth rate provided by ESAs.
- keep the illustration of costs as simple as possible, and in line with MiFID II disclosure: present aggregate cost figures, without RIY approach, together with the relevant costs of the product in percentage of the value of the subscription/redemption or the net asset. This approach would lead also to firms distributing investment products to rely on the disclosure of product costs provided in the PRIIPs KID for the purpose of computing their aggregated cost figure comprising charges of both product and service;
- as regard the methodology for calculating transaction costs, provide two options:
    - use standardised transaction costs figures, improving the proposed methodology applied for new PRIIPs. In line with a proportional regulatory approach, a “simplified” method where the ESAs provide the relevant figures, would require cheaper, less time consuming, more reliable systems, given the challenge of what has to be measured. The above would be in line also with the systems already applied by asset managers to provide transaction costs figures for the purpose of MiFID II disclosure;
    - use a more empirical calculation that avoids the slippage drawdown i.e. compare the execution price against the mid-market price when a trade takes place, rather than

against the arrival price. This aspect is of specific relevance for the treatment of costs resulting from the market impact of transactions which shall be disregarded for the purpose of MiFID II disclosure.

- **review/clarify the scenario and cost presentations:**
  - **for closed-ended fund.** The information presented in the PRIIP KID should reflect the PRIIP's lifetime (RHP) and be based on the business forecast given for these highly individualised funds (e.g. ELTIF, EUVECA, EUSEF, real estate and other private equity or debt funds). This would facilitate retail investors' understanding of the financial characteristic of these PRIIPs and encourage long-term investments in line with the CMU objectives;
  - **for funds that provides single investment or regular investments**: only the information based on single investment should be reflected in the PRIIP KID since it is potentially the most unfavourable one as it does not take into account the mitigations offered by a regular investment (market timing).

Last, but not least, a review of the disclosure regime for UCITS should be applied, since it would be inappropriate and costly to make the UCITS KIID (only) for professional investors (which are not in the scope of PRIIPs) who are capable of analysing more complex information beyond UCITS KIID or PRIIP KID.

Scarica la versione integrale della risposta [2].

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[1] Assogestioni is the trade body for Italian asset management industry and represents the interests of members who manage funds and discretionary mandates around € 2,283 billion (as of September 2019).

Risposta al documento di consultazione congiunto delle ESAs sulle modifiche al KID PRIIPs

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