Comments Template for Joint Consultation Paper concerning amendments to the PRIIPs KID (JC 2018 60)		Deadline 6 December 2018 23:55 CET
Name of Company:		
Disclosure of comments:	Please indicate if your comments should be treated as confidential:	Confidential
	Please follow the following instructions for filling in the template: ⇨ <u>Do **not** change the numbering</u> in the column “reference”; if you change numbering, your comment cannot be processed by our IT tool ⇨ Leave the last column <u>empty</u>. ⇨ Please fill in your comment in the relevant row. If you have <u>no comment</u> on a question or a cell, leave the row <u>empty</u>. ⇨ Our IT tool does not allow processing of comments which do not refer to the specific numbers below. **Please send the completed template, <u>in Word Format</u>, to CP-18-005@eiopa.europa.eu** **Our IT tool does not allow processing of any other formats.**	
Reference	**Comment**	
General Comments	Deutscher Derivate Verband (DDV), the German Derivatives Association, is the industry representative body for the 16 leading issuers of structured products in Germany. It was established on 14 February 2008, with offices in Frankfurt am Main and Berlin. The largest association of its kind in the world, the DDV serves as a political interest group in Brussels. The DDV’s members are among the most important certificate issuers in Germany, representing more than 90 percent of the total market. Furthermore, the Association’s work is supported by 16 sponsoring members.	

| | The DDV's aim is to improve the general political and regulatory conditions for structured products in Germany and at the European level, and to encourage increasing numbers of private investors to choose certificates and warrants. The objectives of the DDV therefore include making the products more comprehensible and transparent, as well as protecting investors.

The DDV is an advocate of self-regulation, and it works in conjunction with its members and sponsoring members to set industry standards.

The DDV welcomes the opportunity to give feedback on the ESAs Joint Committee's proposed amendments to the PRIIPs KID. The PRIIPs regulation is of utmost importance for members of the DDV. In the past year since entry into force of the PRIIPs regulation, the DDV has repeatedly focused attention on problems arising from certain calculations that lead to confusing or even misleading results concerning cost figures and performance scenarios.

Therefore, the DDV strongly favours a comprehensive review of the RTS in order to identify adjustments and improvements to the methodologies, rather than arbitrarily fixing certain calculations without really knowing the actual impact on the individual results for different kinds of products.

The amendments should follow a thorough analysis of the existing problems. In principle, the amendments should be to the RTS, and changes to the Level 3 measures should be kept to a minimum. Furthermore, they should be subject to a public | |

	consultation with a sufficiently long feedback period in order to receive feedback from manufacturers and distributors of PRIIPs as well as representatives of consumers. It seems that the focus of the present proposals is to make the PRIIPs regulation selectively more fit for UCITS funds without comprehensively reviewing proposed methodologies that consider all types of products. Given the wide range of products, it might be difficult to find one single approach, so regulators may even need to consider certain changes in the Level 1 regulation. The following topics should be considered/addressed as part of a comprehensive review: 1. The DDV strongly opposes the proposal to include representations of past performance in the KID since they contribute absolutely no added value in the case of passive products and clearly diminish the comparability of different kinds of products (active vs. passive). 2. Reviewing current scenario calculations and closing methodological gaps: - the DDV opposes the suggestion to remove two scenarios out of the four. Currently, most of the problematic scenarios occur in the case of interim scenarios. If the comprehensive review shows that these methodological issues cannot be properly resolved, one solution might be the deletion of interim scenarios altogether (see also Q7). - Adjusting the methodology and/or presentation of scenarios for autocallables (see also Q9).	

	- Correction of the "historical drift" of scenarios to avoid misleading results, such as for structured bonds with a yield underlying that experienced a very negative drift in past years. The correction has to be prescribed for all PRIIPs products and will have to be in line with other adjustments (e.g., allowing presentation of past performance for funds will lead to unfair advantages for funds – see also Q7 risk neutral). 3. Adjusting the narratives for performance scenarios in order to better reflect the hypothetical nature of performance scenarios (see also Q6). 4. Transferring adaptions regarding annualisation in Q&As into the RTS (see also Q9).	
Q1	**DDV statement: Information on past performance should not be included** **Explanation:** For most structured products, derivatives or any other "passive" investment (e.g., ETFs), neither the past performance of the underlying nor of the PRIIPs products provides any added value. Furthermore, it creates a misleading expectation that past performance has a predictive value for future performance. The combination of a history with "drift" and the forward-looking performance scenarios with "drift" will result in a misleading picture for investors. For assessing actively	

	managed portfolios (e.g., funds), past performance may provide useful information, but only in this special case. To ensure comparability of all PRIIPs products (passive as well as active instruments), the past performance information should therefore not be included.	
Q2	**DDV statement: Yes** **Explanation:** Particularly for structured products, the 3-page limitation already results in a maximum utilization of the space available with no scope to include further information. In addition to the space limitation, the information might lead to not defined use cases (e.g., the information for IPO without any history, the missing prescribed simulation approach). Furthermore, there might be data license issues with respect to displaying performance data. As stated in the answer to Q1, in consideration of the lack of added value provided by the information, combined with space limitations and potentially poorly defined use cases, this information should not be included for all “passive” PRIIPs. Please see also our answer to Q4.	
Q3	**DDV statement: Strong preference to not include past performance** **Explanation:** The display of past performance as suggested may be appropriate for actively managed portfolios. As stated in our answer to Q1, we strongly recommend not displaying past performance for passive PRIIPs due to the described misleading information and comparability issues.	

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Q4	**DDV statement: No** **Explanation:** The simulation of past PRIIPs performance leads to results for category 2 and category 3 products that are not comparable. Furthermore, the simulation effort for structured products is enormous and has no value added. As stated in the previous answers, this will result in many new – not defined – use cases that are currently not prescribed (e.g., use of realized history vs. simulated history etc.). Please see also the previous answers.	
Q5	**DDV statement: No** **Explanation:** See the answer to Q4. We strongly recommend not including past performance simulations in the KID.	
Q6	**DDV statement: We support a change, but the explanation has to be refined** **Explanation:** The new paragraph should be expanded regarding the intended message. JCP: *“Market developments in the future cannot be accurately predicted. These scenarios are only an indication of the range of possible returns.”* Proposal DDV: *“Market developments in the future cannot be predicted. Actual return may differ and could be worse in many cases. Investors should not base their investment decision on these performance scenarios. What you receive will vary depending on how the market performs and how long you hold the product.”*	

	Replacement of element D: We do not support the replacement of the description of the stress scenario as it is not covered in the proposed narratives.	
Q7	**DDV statement: We support the process of identifying adjustments and improvements to the methodology defined in the PRIIPs RTS as part of a comprehensive review of the RTS in contrast to fixing certain calculations without really knowing the impact on individual results and the whole representation of the PRIIP. The review should contain an adequate product universe covering all PRIIPs pay-off profiles with sample calculations for the products to identify a profound and sustainable methodology meeting the requirements of all PRIIPs products in a comprehensible and comparable manner for retail investors.** **Explanation:** <ins>Risk neutral:</ins> We see the risk-neutral simulation approach for performance scenarios as unsuitable if it is not prescribed for all PRIIPs the same manner (also category 2) and historical performance is shown. As described in our answer to Q1, our view is that past performance has no predictive value with respect to future performance. To be clear, this will result in no differentiation between badly performing and well-performing underlyings with the same volatility in the scenarios. This might lead to irritation for investors. If actively managed funds are permitted to show the non-risk-neutral historical performance, this unfarily disadvantages passive products, for which historical performance is irrelevant for future performance.	

	The RTS in general differentiate between risk and performance, which is appropriate from our point of view. For assessing the market risk, the risk-neutral approach is already prescribed and suitable. We suggest not changing the methodology here. <u>Extend observation history from 5 to 10 years:</u> We strongly recommend not using a longer history, as the 5-year history already has a smoothing effect and a delayed increase/decrease of the risk in new market conditions. A 10-year history might result in very stable risk classes, but potentially very different from the market conditions experienced in the more recent past. Furthermore, long histories for products such as shares with many corporate actions may contain market conditions that are significantly different from the reality today. <u>Deletion of moderate and unfavourable scenario:</u> We appreciate the endeavour to reduce the prescribed content to obtain more space, but we strongly recommend not reducing the number of scenarios in the current setup. Particularly for structured products with partial capital protection (barrier products) the effect of the protection feature won't be comprehensible for investors where there are only two scenarios and one scenario will – with high probability - result in a barrier breach (stress), and the upside scenario in a cap. Other PRIIPs without protections features (hence higher risk and SRI) and 1:1 participation will have nearly the same stress scenario but ultimately a better upside. The investor will be guided by this combination into higher risk products, as it indicates that the downside is nearly the same, but the upside is better. As an alternative to the removal of the two scenarios, we propose deleting the interim scenarios in general and show only the scenarios for the RHP. This has also the major	

	advantage of mitigating the problem of misleading scenarios, as the interim scenarios are the most liable to result in abstruse figures.	
Q8	**DDV statement: We support the process of identifying adjustments and improvements to the methodology defined in the PRIIPs RTS as part of a comprehensive review of the RTS in contrast to fixing certain calculations without really knowing the impact on individual results and the whole representation of the PRIIP. The review should contain an adequate product universe covering all PRIIPs pay-off profiles with sample calculations for the products to identify a profound and sustainable methodology meeting the requirements of all PRIIPs products in a comprehensible and comparable manner for retail investors.**	
Q9	**DDV statement: We support the process of identifying adjustments and improvements to the methodology defined in the PRIIPs RTS as part of a comprehensive review of the RTS in contrast to fixing certain calculations without really knowing the impact on individual results and the whole representation of the PRIIP. The review should contain an adequate product universe covering all PRIIPs pay-off profiles with sample calculations for the products to identify a profound and sustainable methodology meeting the requirements of all PRIIPs products in a comprehensible and comparable manner for retail investors.**	

| | **Explanation:**
<u>Considerations in Q&As:</u>
The DDV clearly welcomes the adjustments made for products with a product lifetime of less than one year in the ESA Q&As [cite Q&As] as a quick and short-term remedy. In principle, however, the DDV is of the opinion that sufficient clarity is needed as early as Level 2. Therefore DDV calls for a transfer of this Q&A clarification into the RTS. In addition, the DDV strongly favours a profound review of the RTS with an adequate peer analysis as soon as possible in order to tackle other persisting issues at Level 2.

With regard to the present Q&A narratives that need to be further adapted: first of all, ESAs in their Q&As still refer to the possibility of comparing these scenarios with those of other products. Considering the methodological divergence, this is no longer appropriate.

<u>Auto-call adjustment:</u>
We recommend the following alternative approach (in line with the EUSIPA PRIIPS RTS working group):
A. Auto-call payments should not be accrued to the RHP
For bootstrap paths that trigger an auto-call event, the auto-call payment should not be accrued to the product's scheduled maturity. In other words, for the purpose of displaying a product's yield and return in the RHP column of the performance scenario table, it should not be assumed that the investor reinvests the auto-call payment for the remainder of the term of the product. | |

	While from a financial perspective it may seem to be a valid technical choice to accrue auto-call payments in order to show the yields and returns of the different scenarios at the RHP on a comparable basis, retail investors in practice find it difficult to comprehend the resulting values. It is also worth noting that not accruing auto-call payments will, in normal market conditions, tend to understate rather than overstate outcomes. Therefore, in EUSIPA's view, the recommended practice promotes investor comprehension of KIDs without materially altering the mix of information. B. In calculating IHP values, auto-call payments should be considered with their time value. We recognize that the methodology used to calculate the IHP values shown in the performance scenario table varies among market participants. We believe that where a manufacturer calculates these values using a methodology that considers the average of the future cash flows payable by the manufacturer, any auto-call payments so payable should be considered with their time value rather than with their numerical value. By way of example, where a product has an annual auto-call feature and a remaining term of three years, in calculating the IHP 1 values, a manufacturer should discount any auto-call payments after two years over a period of one year (i.e., the two-year mark where the payment is made minus the one-year measuring point for IHP 1), whereas any payment at maturity should be discounted over a period of two years (i.e., the scheduled maturity of three years minus the one-year measuring point for IHP 1). C. The principles outlined above with respect to auto-call payments should also be applied to other types of early payments, such as coupon payments or instalment payments. The DDV recommends that the above principles in terms of accrual, time	

| | value and ongoing costs be applied mutatis mutandis to other types of payments that occur before a product's scheduled maturity. This includes coupon payments and instalment payments.

D. IHP 1 values, IHP 2 values and RHP values should be calculated independently of each other. As mentioned above, market practice regarding the calculation of IHP values varies. The DDV does not endorse or recommend any particular calculation methodology. However, the DDV is of the view that the values for the different calculation points (IHP 1, IHP 2 and RHP) should be simulated and the results for the different scenarios be sorted independently of each other.

<u>General indication of 3% for RIY:</u>
We see positive and negative effects from a prescribed general indication. This approach leads to more generic cost figures as the performance of the product is excluded from the calculation. This solves most of the remaining calculation problems. The downside is that this is a misleading figure as it is extracted out of the context (reduction in yield) based on a generic yield, not the one calculated in the scenarios. Please see also our entry statement to this question.

<u>Narratives for summary risk indicator:</u>
We welcome the possibility of adding optional text to the narratives for the risk indicator as proposed under 4.2.3 of the Consultation Paper. The possibility to add additional information would help manufacturers introduce further explanations that take account of the particularities of the relevant product. We do not think that the | |

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	inclusion of examples of what could be stated in this context would provide added value, because of the wide scope of the PRIIPs Regulation. We support the exclusion of the text indicating that risk can be higher for products with an SRI of 7.	
Q10		
Q11		
Q12		
Q13		