

**Submission Date** 

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**ESMA\_QA\_1088** 

Status: Answer Published

#### **Additional Information**

### **Level 1 Regulation**

Undertakings for Collective Investment in Transferable Securities Directive (UCITS) Directive 2009/65/EC

## **Topic**

**Disclosures** 

## **Subject Matter**

Past performance - KIID

### **Question**

Does the overall requirement for the UCITS KIID to be 'fair, clear and not misleading' under Article 3(2) mean that performance disclosed in the KIID regarding a benchmark index should be consistent with performance disclosure in other investor communications, including marketing?

## **ESMA Answer**

01-03-2019

# Original language

[ESMA 34-43-392 UCITS Q&A, section 2, Q&A 4c]

Yes. UCITS management companies should ensure that disclosure of performance in the KIID is not misleading by way of being inconsistent, including by ensuring consistency:

- Across offering documents and marketing material, including the prospectus. It may be
  unclear to investors if the UCITS names and measures performance against a
  benchmark index in the prospectus, or other marketing material, but not in the KIID.
  The KIID should be consistent with other fund documents. This also applies to ensuring
  that the benchmark index used is consistent.
- Across distribution channels. It may be inconsistent if a UCITS arranges for, or permits, an index to be referred to as a benchmark in certain media, such as online platforms or financial data providers, but it does not make the same comparison in the KIID. This also applies to ensuring that the benchmark index used is consistent.
- Across investor types. It should be ensured that all types of investors receive consistent
  and not misleading information regarding whether or not the UCITS has a benchmark
  index. For example, it may be inconsistent if a UCITS suggests performance should be
  measured against a benchmark index to only a cohort of investors (such as in
  communications to professional investors only) but does not provide the equivalent
  performance comparison to all investors through the KIID. This also applies to ensuring
  the version of the benchmark index used is consistent.