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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.