

Response to CCSR consultation paper at level 2 on the format and content of Key Information Document disclosures for UCITS

Ref: CCSR/09-552

Section 1: Title of document, order of contents and headings

Questions for the CCSR consultation

Do you agree with the proposals in Box 1?

Yes

Should the information referred to in point 9 of the box be called 'Practical information'?

We have no issue with this name.

Section 2: Appearance, use of plain language and document length.

Questions for the CCSR Consultation

Do you agree with the proposals in Box 2?

Yes

In particular, do you agree that the maximum length of the document and the minimum acceptable point size for type should be prescribed at Level 2?

Yes

Are there any other rules that should be prescribed in relation to the appearance of the KID?

No, companies should be allowed to present their KID in anyway they want as long as these proposals are met.

Section 3: Publication with other documents

Question for the CCSR consultation

Do you agree with the proposals in Box 3?

Yes. We would also like the principle extended to allow the gathering of a range of KID's in one place. Clarification is needed over what a 'lengthy' document is. Would a range of 6 KID's printed together as one brochure, with no other information included, be deemed 'lengthy'?

Section 4: Objectives and Investment Policy

Questions for the CCSR consultation

Do you agree with the proposals in Box 4?

In general yes. Points 1c) and 1 d) could be brought together as we don't believe that investors necessarily plan when they're going to withdraw their money.

Possible wording could be:

"Recommendation: you can withdraw money from this fund [at any time], but it is designed for you to invest for at least [five] years."

In particular, do you agree that the information shown is comprehensive and provides enough detail to ensure comparability between KIDs?

We believe that all the major information required by a customer is covered. However the statement around how often a customer can redeem units may be better placed in the 'Practical Information' section.

Are there any other matters that should be addressed at Level 2?

No, but the decision of what is meant by 'prompt revision' of the KID should be left to the provider.

Section 5: Risk and reward disclosure

Questions for the CESR consultation

What are your views on the advantages and disadvantages of each option described above?

The disadvantage of a purely written measure is the difficulty in making it understandable to customers and that it would be very hard to standardise.

The advantage of an indicator is that it can be easier for a customer to understand and could possibly be standardised.

Do you agree that Option B (a synthetic risk and reward indicator accompanied by a narrative) should be recommended in CESR's final advice? Respondents are invited to take due account of the methodology set out in Annex 1, as supplemented by the addendum to be published by the end of July, when considering their view on this question.

Yes, this is our view. But the indicator would need to be shown as a scale, not as numbers. Further information is needed on how much of the detail in option A should be included in option B.

Questions for the CESR consultation

Do you agree with the proposals for presentation of risk and reward in Box 5A?

No, we do not agree that risk and reward should be presented in a purely written format.

In addition:

Point 1b) guidance is needed on what is meant by 'operational risk'? Could this be considered during level 2?

Point 1f) if derivatives are only used for minor EPM purposes, we do not believe an explanation of their impact is needed?

Are there any other issues that CESR should consider if it decides to recommend this approach to the disclosure of risk and reward?

We do not believe that this approach should be recommended.

Questions for the CESR consultation

Do you agree with the proposals for presentation of risk and reward in Box 5B?

We agree that risk should be shown as an indicator rather than as purely text. We don't believe, however, that a numerical scale conveys the correct information to a customer.

We believe that a sliding scale from low to high would show a customer more precisely where their prospective fund fits. You could have 6 sections within that sliding scale. For example, on the proposed numerical scale, a fund could be shown as a 3. This fund could actually be at the top of the 3 band and nearer in risk to a fund shown in band 4. A customer may therefore compare it with other funds in band 3 where in fact they should be comparing against funds in a higher band.

You could still show a numerical scale, but should show where within each number a fund sits. At least whether it's in the bottom, middle or top section of that number.

In addition the current proposed presentation infers each band has the same range of risk profiles. In practice box 6 is likely to have a much wider risk spectrum than box 1. We would propose that the boxes, if used, do not have to be of uniform width to allow the full range to be shown.

In particular, is the proposed methodology in Annex 1 capable of delivering the envisaged benefits of a synthetic indicator?

We have been in discussion with the IMA and our response is in line with theirs.

Does the methodology proposed by CESR work for all funds? If not, please provide concrete examples.

As above, we have been in discussion with the IMA and our response is in line with theirs.

Respondents are invited to take account of the methodology set out in Annex 1, as supplemented by the addendum to be published by the end of July, when considering their view on the questions above.

Are there any other issues that CESR should consider if it decides to recommend this approach to the disclosure of risk and reward?

Please see above answer regarding numerical scale against sliding scale.

Section 6: Charges disclosure

Questions for the CESR consultation

Do you agree with the proposals in Box 6?

In general yes, but we believe that without more specific guidance companies will interpret whether a fund has material transaction costs differently.

In particular, do you agree the table showing charges figures should be in a prescribed format?

Yes, we believe that charges, along with the risk of a fund, are the two things that a customer will compare. A standard table will allow better comparison.

Do you agree with the methodology for calculating the ongoing charges figure?

Yes, the figure should be shown based on ex-post figures (where possible).

Disclosure of charges in cash terms

Questions for the CESR consultation

Do you agree with the proposals in Box 7?

We don't believe that the proposed summary illustration shown is the best way to explain how a customer's investment may be affected. It doesn't take into account the type of fund, whether its income distributing or accumulating or what the fund's yield may be.

If a summary illustration is to be used, then there should be two versions, one for income distributing funds and one for growth funds. The current version doesn't seem to take into account different types of fund.

There would need to be additional wording if the fund had a performance fee.

In particular, do you agree that CESR should not prescribe a specific growth rate in the methodology for calculating the illustration of the charges?

If the idea is to allow customers to compare funds then a specific growth rate should be shown. This again would differ depending on the type of fund. This would be similar to the growth rates system that the UK's FSA prescribe.

Circumstances in which ex-post figures might be inapplicable

Question for the CESR consultation

Do you agree with the proposals in Box 8?

Yes.

Question for the CESR consultation

Do you agree that a variation of 5% of the current figure is appropriate to determine whether a change is material? (Box 9)

No. Materiality should be decided by the provider. In particular the 5% test will be very difficult to monitor for funds that substantially invest in other funds. When underlying investments are changed the total ongoing charge may vary greatly throughout the year.

Question for the CESR consultation

Do you agree with the proposals in Box 10?

In general yes, however this may lead to operational difficulties for companies who have accounting periods throughout the year.

Section 7: Past performance presentation

Question for the CESR consultation

Do you agree that the above CESR proposals on past performance presentation are sufficient and workable? If not, which alternative approach would you prefer? (box 11)

Yes.

Questions for the CESR Consultation

Do you agree that the above CESR proposals on past performance calculation are sufficient and workable? If not, which alternative approach would you prefer? (box 12)

Yes. We also have comment on box 13 below.

Maintaining the past performance record (box 13)

There is no question to go with this box.

We believe that 25 days following the 31 December is too tight to produce an updated KID. We believe that data companies records sometimes have erroneous data in the first weeks following the end of the requested period.

Questions for the CESR Consultation

Do you agree that the above CESR proposals on material changes are sufficient and workable? If not, which alternative approach would you prefer?(box 14)

No. We believe that past performance achieved before a material change is irrelevant to a potential customer. If a customer is looking to invest in a fund after a material change, any performance shown from when it was run on a different basis can only confuse or mislead.

There should be a note in the KID to state that there has been a material change to the fund on a certain date and that only past performance after that date has been included.

Question for CESR consultation

Do you agree with this approach? If not, which alternative approach would you prefer? (box 15)

Yes.

Questions for the CESR Consultation

Do you agree that the above CESR proposals on the use of 'simulated' data for past performance past performance presentation are sufficient and workable? If not, please suggest alternatives? (box 16)

Yes. We believe that following a merger, the performance should be shown of the continuing fund.

As with funds that have made a material change, the KID should contain a note of the merger.

Section 8: Practical information**Question for the CESR consultation**

Do you agree with the proposals in Box 17?

In general yes, but we believe that information concerning how to buy and sell units should be included. This is a basic process that a customer should be aware of.

Use of signposting to other sources of information**Question for the CESR consultation**

Do you agree with the proposals in Box 18?

Yes. Although for point 3 it would be difficult to signpost to information on one specific charge (for example performance fee). The signpost would need to be to the 'charges' section in the prospectus.

Question for the CESR consultation

Do you agree with the proposals in Box 19?

In general yes. As stated in previous sections, we believe that that the requirement to have an updated KID ready 25 days into the new annual period is too tight. Also we don't believe that charge fluctuations of over 5% should necessarily be deemed as material and require an update.

Special cases - how the KID might be adapted for particular fund structures.

Question for the CESR consultation

Do you agree with the proposals in Box 20?

Yes.

Question for the CESR consultation

Do you agree with the proposals in Box 21?

Yes. We would support the use of a representative class being used in the KID.

Question for the CESR consultation

Do you agree with the proposals in Box 22?

Yes in principle, but we have two issues.

One is that the 5% rule for changes to charges may be difficult to adhere to for Fund of Funds.

Secondly, how should funds that invest partly on a Fund of Funds basis be treated?

Question for the CESR consultation

Do you agree with the proposals in box 23?

Yes.

Section 14: Structured funds, capital protected funds and other comparable UCITS

Questions for the CESR Consultation

Do you agree with the above CESR proposals on performance scenarios? In particular which option (A or B) should be recommended? If not, please suggest alternatives.(Box 24A and B)

Option A should be recommended.

Section 15: Medium and timing of delivery, including use of a durable medium
Questions for the CESR Consultation

Do you agree with the proposals in box 25? If not, what alternative approach would you suggest?

We agree with the proposals in general. Clarification is needed on whether it's a requirement to have all KID's available on a website, or just a recommendation.

This is particularly relevant to non-marketed funds. Would CESR expect a KID to be available on-line for funds that are not actively promoted?

Section 16: Other possible Level 3 work

Question for the CESR consultation

Do you agree with the approach to transitional provisions set out above?

Are there any other topics, relating to KII or use of a durable medium, not addressed by this consultation, for which CESR might undertake work on developing Level 3 guidelines?

- *Does it apply to new UCITS launched during the 12-month period, or must they use a KID from the outset? To allow consistency across its range of funds, companies should be allowed to use either an SP or a KID during that period.*
- *What about the launch of a new share class within an existing fund? An updated SP should be allowed.*
- *Can an existing fund update its SP during the period or does the requirement to produce a KID take effect as soon as the current SP becomes out of date, for whatever reason? As bullet point 1, companies should be allowed to use either an updated SP or a KID during that period.*