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FRANCE

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**CESR consultation paper on technical issues relating to Key Information Document
(KID) disclosures for UCITS (CESR/09-047)
Response to Questions 1 - 22**

Dear Mr. Comporti,

We would like to thank CESR for the opportunity to comment on the issues discussed in the consultation paper. Please find in the following our answers to selected Questions in Chapter 1 and some further remarks concerning CESR's proposals for the Risk and reward disclosure.

First of all and with regard to the intensive discussion about the "right" methodology of the risk indicator which is obviously raised not only at the associations but also inside CESR, we would like to point out that we prefer not to support any of the common methodologies mentioned in Chapter 1.

With completion of CESR's advice we kindly ask you to consider the following remarks:

- All indicators which just demonstrate the risk miss the point of a reward-indicator-standard.
- A VaR-approach based on the ex-post-methodology can be regarded as a fixed factor multiplied by the historical volatility. Consequently this approach would be a double compromise because in the first place it doesn't offer a prospective view (in terms of taking into account actual positions) and in the second place the mentioned restrictions of volatility still hold on.
- A VaR-approach using ex-ante-calculation leaves the investor with incomparable classification not only between different asset managers but also between different time



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steps of the same asset manager and the same product (i.e. recent volatility measures of equity indices show fluctuations between 15 and 70 percent).

- A detailed harmonisation of the ex-ante-methodology would cause an excessive burden of regulation, which is unknown in scopes of risk management of bank and as well as in the domain of asset management until now.
- In view of the current considerations about the level playing field at retail-products at European level to come with the KID requirements it is necessary to carefully consider all relevant factors. To be able to make a decision there is need for a respectable argumentative base and a general consent. Both appears not to be in sight at that time.

In consideration of the fact that there is a need for a standardized approach for retail-products all indicators based on a quantitative methodology should be avoided because it throws some doubt on whether such indicators would be applicable to different product categories.

We therefore recommend not to disregard the work on Option A and to bear in mind the following arguments in favour of a narrative approach:

- The advantage of the described approach lies mainly in its potential for development and flexibility: UCITs enables us to have a multitude of funds and the KID is designed to be useful for this multitude of funds – only the narrative approach seems to be suitable here, since all synthetic indicators exhibit weaknesses, depending on the fund category (e.g. Life-Cycle funds).
- Every synthetic indication can result in misinterpretations and to a “false sense of security” in the investor’s understanding. For example, he might ask: “How could a fund of the 2nd category lose so much?”. Even a fund with low volatility can, for example – relatively steadily – generate great losses.
- We believe that a narrative approach can also fulfill the relevant criteria developed by CESR for the synthetic indicator: Easy to be implemented, understandable by customers, not misleading and that there is the possibility for the supervisor to check the risk indicator. The indicator can take account all relevant risks according to the risk management policy of the fund. Furthermore, we believe that also the narrative indicator can be scaled (e.g. by using scorings) and illustrated to customers.
- In addition, the current dispute over methodology leads one to assume that consensus on a recognized and sensible quantitative method of risk disclosure applicable throughout Europe will be difficult to find.

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Question 1:

As already described above, the proposed quantitative approaches are afflicted with an abundance of drawbacks, which is why we are again referring to our argumentation for a narrative approach from above.

As to the question, we address it as follows: historic volatility as the sole risk indicator exhibits weaknesses. The disclosure problems brought forth by using volatility (e.g. for funds with a lack of statistical series, for special risk situations, unclear or unsuitable categorization of certain fund types) outweigh the advantage of the "simple" calculation of these parameters and/or their high profile. In this respect, it cannot be described as being in full harmony with the criteria mentioned under recital 7.

Question 2:

As already described above, the proposed quantitative approaches are afflicted with an abundance of drawbacks, which is why we are again referring to our argumentation for a narrative approach from above.

As to the question, however, we address it as follows: the estimate for the level of risk is generally based on estimates from the past, which is why in general there is a problem in that only risks that became striking in the past are taken into account in the reference index. As a general rule, the volatility is less well-suited here for loan and event risks, which would then have to be taken into account by means of respective add-ons or in some other way. But these, in turn, would make comparability more difficult.

Question 3:

As already described above, the proposed quantitative approaches are afflicted with an abundance of drawbacks, which is why we are again referring to our argumentation for a narrative approach from above.

As to the question, however, we address it as follows: the additional measures are intended to ensure appropriate allocation to the categories. In light of the many corrective measures (add-ons, supplementary statistical series, etc.) and the fact that special types of risks or fund structures are still unknown at this time or cannot yet be correctly assessed, the risk appears to be very great, so that the percentage of funds which will not be adequately allocated will be greater than is presently assumed.

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Question 4:

As already described above, the proposed quantitative approaches are afflicted with an abundance of drawbacks, which is why we are again referring to our argumentation for a narrative approach from above.

As to the question, however, we address it as follows: based on the disclosed framework conditions alone, it is impossible to assess with certainty whether a satisfactory differentiation will be achieved. However, the correction suggestions (allocation of certain funds to the highest risk class and/or upgrading) appear to be arbitrary. They favor the formation of "chance results" in their classification. Discrimination against certain types of funds is likely inescapable within this context. This effect could also be intensified if we remain with the seven-step categorization.

Question 5:

There are two reasons why introducing add-ons poses a risk. On one hand, it can result in misuse or deficits in comparability if there is too much freedom of action in determining and disclosing add-ons, while on the other hand regimentation that is too strict or too detailed could result in excessive regulation. A workable form of standardization does not appear to be technically feasible.

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Question 7:

In general, this distinction is a feature to be embraced, but the commingling of guarantee funds with structured products based on the different risk and reward profile is not wise and can result in a false interpretation by the investor. We propose a fourth category of "capital protection funds". Alternatively, guarantee funds could at least be allocated to the strategy funds.

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Question 8:

This question demonstrates the total dilemma of trying to quantify, which reaches its limits and is expected to be cured with qualitative add-ons. That is why we refer once again to our statements about the narrative approach, which is our preference. In other respects, the exclamation mark can be interpreted in too many different ways (as a warning, danger, uncertainty, emphasis) to render it suitable in this setting.

Question 9:

Since the commingling of guarantee funds with structured products based on the different risk and reward profile is not wise and can result in a false interpretation by the investor, we suggest (see also Question 7) the establishment of a fourth category. Classifying guarantee funds in the highest risk level is not appropriate.

Question 10:

We feel that a five-level classification system is appropriate, with the fifth class actually representing the highest risk and reward category. Allocating all of the funds that are not clearly allocatable to the highest risk class five across the board would be misleading. These classes would have to be described outside of the classification system.

Question 11:

One methodology that represents a workable standardization is not technically feasible. One methodology would therefore not be able to properly cover all of the conceivable situations. The solution lies in the use of the narrative approach.

Question 12:

Based on the additional specifications required (risk add-on and/or modifier), it is impossible to calculate a result for the proposed methodology. If the calculation of the risk indicators or the classification is also to be supervised by the regulators, assurance must be given at the legal / European level that the respective standards and calculation methods are applied and supervised in the same way throughout Europe.

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Question 13:

Based on the weaknesses of the methodology already displayed, the application questions that arise from the use of the methodology and the fact that applicability to the funds palette is only conditional, we feel that the methodology is not suitable. The solution in this case as well is the narrative approach.

Question 15:

As already described above, the proposed quantitative approaches are afflicted with an abundance of drawbacks. That is why we are again referring to our argumentation for a narrative approach from above. As to the question, however, we address it as follows:

Methodical aspects: a breakdown of the volatility "buckets" should meet the following criteria: support of a stable classification of the funds into the risk classes, minimum differentiation in the risk level from the perspective of the investor (see also the consumer testing results regarding this). Of course not every individual provider's product range can be classified without clumping, if one classification is to succeed across providers while niche providers exist at the same time.

As to the scale itself: a non-linear classification of the volatility "buckets" is recommended. Prescribing purely numeric parameters among the classes will not suffice: overall guidelines for handling funds with unstable timeline allocation are important, since classification can vary greatly depending on market and conceptual conditions and the goal of comparability without further clarification is thus greatly endangered.

Question 16:

A suitable scale should meet the above criteria (see also our answer to Question 15) industry-wide (!), and another suitable methodology for this could be developed in collaboration with industry experts. Suggestions for a scale that is specific to particular providers would of necessity have to be geared toward the respective product palette (see also niche providers) and could not achieve the appropriate differentiation across providers.

Question 18:

No, we refer to our answer to Question 10. Moreover, it does not make sense to arbitrarily combine funds that cannot be further specified into category 7. This leads to misunderstandings on the part of interested parties / investors.

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Question 20:

As already described above, the proposed quantitative approaches are afflicted with an abundance of drawbacks, which is why we are again referring to our argumentation for a narrative approach from above.

As to the question, however, we address it as follows: with respect to the limited position that the KID will provide, it is necessary to keep the number of possible disclaimers as low as possible. Disclaimers that can lead to uncertainty among investors, or that require explanation or are already provided somewhere else within the documentation should be deleted. Bullet points 4, 6, and 8 should therefore be deleted.

Question 21: Please see our answer to Question 20.

Question 22: No.

Yours sincerely,

Union Asset Management Holding AG

Gez. Dr. Hein

Gez. Schmid