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Key Investor Disclosure / Simplified Prospectus - CESR/07-241

Dear Mr. Secretary General!

General Remarks

The Bank and Insurance Department of the Austrian Federal Economic Chamber welcomes the initiatives adapting the simplified prospectus (SP) in order to better fulfill its purpose of informing clients before they invest in UCITS. Unfortunately the current content and format of the SP does not necessarily achieve its initial objectives, since in most member states, the documents are too long and technical and therefore cause difficulties for the average investor to understand and use them.

Before going into details of potential adaptations and subject to our comprehensive reply to the Commission's possible adjustments to the UCITS Directive (85/611/EEC) later on, we want to emphasize on the cost issue of such changes in the sense that any new regulation should be of sustainable nature in this regard since every such change causes tremendous costs for the industry.

Moreover, the Austrian Credit Industry generally believes that the SP should (i) primarily target retail investors, (ii) provide product information and not investor education, (iii) allow comparability in the sense of full harmonization of information despite leaving some flexibility to the management company in terms of layout and wording and (iv) provides the average investor with all relevant information in order to make a considered investment decision.

The Commission has so far set out two options regarding possible adjustments to the UCITS Directive being (i) a maximum harmonization at level 1 and (ii) a new approach to

investor disclosures. We basically rather tend to a maximum harmonization but also are informed the flexibility of option 2. Therefore a somehow combined approach of both options with the emphasis on the full harmonization should be pursued. In any case, when focusing on the new concept of Key Investor Information (KII), which constitutes option (ii) should in any case not widen the gap between UCITS and other (retail) saving products, for example regarding the disclosure requirements. This is especially true if the UCITS is used in a wrapper and the danger that this leads to a disadvantage of the fund industry. To achieve a “level playing field” should still be considered as a crucial goal of the whole financial industry.

Moreover, we want to stress that no civil liability shall attach to any person solely on the basis of the SP/key investor information.

Structure and Content of the SP/Key Investor Information

Referring to the content of Schedule C of Annex I of the UCITS Directive, the Austrian Credit industry is – without going into too much detail – of the opinion that despite Schedule C provides a useful groundwork for the SP, it has to be reviewed in order to fulfill the following principles:

- The SP should focus on essential information and should just provide a useful overview of key information. Further and more detailed information can be found in the full prospectus and/or other resources. Since the SP is intended as a short pre-contractual document that will make reference to the full prospectus it seems necessary to amend the provisions of the latter as well (adaptation of the UCITS Directive).
- The SP should be offered over to the investor at the point-of-sale through intermediaries or distributors. This obligation ensures that the investor obtains standardised, harmonised and accurate product information. It would otherwise be left to the discretion of the intermediaries or distributors what information is supposed to be appropriate for the investor.
- The SP should be flexible in terms of local content items.
- The SP should state the total expense ratio (TER) of the fund and the costs of the fund should be shown as percentages.
- Regarding the performance presentation, a bar chart still seems to be the best way to present annual performance since it also provides a good graphic representation of the fund's possible downside risk.
- In terms of risk disclosure, we feel that a verbal description of the risks is more appropriate than any graphic representation.
- Regarding the UCITS-documents, only the SP should be translated into the local language. All other documents should be translated into English as the only accepted language that is customary in the sphere of international finance.

Outlook

Due to its so far non-binding nature, the existing SP has not fulfilled its purpose and therefore the proposed revision of the UCITS Directive text relating to the SP and making it Lamfalussy-conform is the first step in the right direction.

Kind regards,

Dr. Herbert Pichler
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