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Key Investor Information disclosures for UCITS

The IMA represents the UK-based investment management industry. Our Members include independent investment managers, the investment management arms of retail banks, life insurers and investment banks, and the in-house managers of occupational pension schemes. They are responsible for the management of nearly £3 trillion of funds, including authorised investment funds, institutional funds, private client accounts and a wide range of pooled investment vehicles. In particular, our Members represent 99% of funds under management in UK-authorised investment funds (ie authorised unit trusts and open-ended investment companies).

It is in their capacity as providers of authorised funds (and, in particular, UCITS) that our Members have a keen interest in this consultation paper and the proposals for the KII, because the responsibility for production of the document will fall to them.

Overall we welcome the thrust of the proposals as they represent a clear desire to achieve a significant improvement in the style and substance of the Simplified Prospectus. In particular, we support the aim to make the KII a document which is clear, concise and useful to the investor and which enables the investor to make an informed investment decision. In considering the feedback to this consultation, we would urge CESR to reject the inclusion of information that does not directly contribute to the achievement of this aim.

We have some reservations about certain aspects of the proposals. These are set out in the attached detailed response, which addresses the specific questions posed in the consultation paper. In summary:

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- Our members have an interest in ensuring that such proposals are applied uniformly across Member States as many funds are sold cross-border, both into and out of the UK. It is essential that the KII be a maximum-harmonised document in order both to meet the stated aims of the document and to maximise efficiency for the funds industry and its investors.
- We do not believe it is cost effective or useful for non-retail investors to be obliged to receive the KII. We also consider that there would be little cost benefit justification for funds which are not promoted to retail customers to produce a KII.
- The IMA does not support the use of a synthetic risk indicator. Risk is a meaningful concept only in relation to the investor's objectives and personal circumstances. A single, synthetic indicator may at best be unhelpful and at worst misleading. Nevertheless, it is important that investors understand the risks inherent in any financial product and we therefore urge that further work be carried out on the best way to use narrative disclosure to describe: a fund's investment objective; the risk/reward trade-off; and any special features such as capital protection.

We would be happy to discuss this submission with you.

Julie Patterson
Director, Authorised Funds & Tax

CESR Consultation Paper on content and form of Key Investor Information disclosures for UCITS
IMA's Response to the Questions on the Paper

- 1. *Are respondents aware of other research which is relevant to the market and regulatory failures associated with the SP?***
- 2. *Do respondents consider CESR's proposals would address the regulatory failures associated with the SP?***

IMA agrees that the SP has not produced the quantum of benefits it was originally expected to deliver. Much of this failure is due to the variability of Member States' transpositions of the requirements, compounded by the seriousness with which fund operators view their obligations to fund investors and concerns about legal liabilities that could arise from incomplete or misleading information. This has led to SPs having the flaws identified in paragraph 2.4 of CESR's Consultation Paper ("the CP").

However, investing is not a simple activity and is not without risk, as well as reward. It is important to recognise that no one document can fully address the many issues arising for investors who lack knowledge or confidence. A shorter, plainly-worded and more clearly laid out SP will deliver benefits, but over-simplification of eg "risk" could result in information that is misleading.

The CP states in paragraph 2.7 that "*most investors, although open to electronic disclosure, still prefer to obtain fund information in paper form...*" We agree that this is currently the case, but would urge CESR to consider the likely profile of future fund investors. It may be that investors welcome in paper form an annual reminder or specific prompt when a fund characteristic has changed, but the number of investors who are prepared to use the Internet to filter their initial investment decisions and to check the details or performance of a fund at regular intervals is growing. The new regime should look to the future or it will be outdated as soon as it is in force.

The proposals represent a big improvement over the current and varied articulations of the SP requirements and are therefore broadly supported by the IMA, but we have a number of important observations on the detail of the proposals, which we make in relation to the relevant questions below.

- 3. *Do respondents think that CESR has accurately described the context in which KII is likely to be used, and has correctly identified outstanding issues?***

Chapter 3 of the CP describes well the distribution landscape. We would note in particular that in the UK, 85% of fund sales are now intermediated in some way, only a small proportion of which is through tied agents.

We agree with the articulation of the responsibilities of the fund operator and the distributor. We would also note that, in addition to the operator's duty of care to take reasonable steps to ensure that distributors are informed when a KII is revised, it is in their commercial best interests to ensure that distributors are kept promptly informed of any changes in fund characteristics. What the fund operators cannot do,

however, is ensure that the distributors pass on that information to their customers in a timely manner.

In the UK there is a plethora of types of wrappers or wrap accounts, through which investors may hold units in funds or gain economic exposure to funds. Paragraphs 3.12 and 3.13 in the CP provide a succinct summary of these. IMA agrees with CESR's comment that in most cases the KII of a UCITS may not be suitable for customers of other entities that invest via another product or wrapper.

We also agree that in such situations the provider of the wrapper should have sole responsibility for providing relevant product information to investors and that a requirement to provide all possible KIIs for eg a pension savings plan would result in information overload. Where a client seeks specific information on each, or many, of the fund choices, KIIs could be provided. We would note, however, that most fund operators provide the SPs of their funds on their websites, so investors can independently access information on the underlying funds that they are investing in or have economic exposure to, at any time.

We concur with the summary of the interaction with other directives and therefore welcome the EU Commission's Call for Evidence on "Substitute" Retail Investment Products as a vehicle for consideration of the issues that this CP highlights.

4. Do respondents agree with the proposed purpose and scope of KII?

We agree with the purpose and scope of KII as set out in paragraphs 4.4 to 4.7. In particular, we agree that it is and should be a pre-contract document which is intended to give sufficient information to aid the investor in making a decision to invest, and that it is not primarily a marketing, educational or regulatory information tool.

It is imperative that it be a maximum-harmonised document, otherwise the statement in paragraph 4.5 of the CP, that *"...this work should also reduce the ongoing costs for fund managers of producing and publishing investor disclosures"*, will not be met. For this reason, too, we disagree with the inclusion of any "local information" (see answer to question 14).

We urge CESR to ensure the KII is a maximum-harmonised document and that there can be no host State challenge to the fund's authorisation or documentation, including the KII.

It would also be unworkable and unjustifiably costly if different Member States took different approaches to the frequency of updating of the document. There is a concern that if the proposals remain silent on the updating of the KII, then there will inevitably be variations on Member States' requirements. We therefore suggest that fund operators be required to review the KII at least annually.

The KII must also be viewed as meeting, without addition, the requirements of MiFID (Article 19). Moreover, the KII requirements must recognise the need to ensure a level playing field between different types of retail investment products. UCITS are already by far the most regulated products and should not be burdened with further disclosures that are not required by legislation of other products.

5. *Should non-retail investors be permitted to opt out of receiving KII?*

First, in relation to retail investors, we are not in full agreement with the statement in paragraph 4.9 of the CP that “...*there is an obligation to deliver the KII to the investor.*” We accept that there is an obligation for operators dealing direct with potential investors to enquire whether they have received or read the KII. But if the investor says they have, then we do not understand how regulation can justify requiring the operator to send that investor another copy. It would be a cost with no benefit.

As regards non-retail investors, it should not be necessary for them to opt out. Rather, if they wish to receive a copy of the KII, they should have to request the document specifically (ie there should be opt-IN). In practice, non-retail investors would find the KII too simplistic and insufficiently informative for their needs. Fund operators commonly produce detailed “fact sheets” for such investors, which include a range of detailed statistical and other information and are designed for investors with high levels of investment knowledge and confidence. To require them to receive the KII would be a cost with no benefit, and is therefore not justifiable.

We also question the cost-benefit justification for requiring funds that are not promoted to the general public to be required to produce KIIs. Again, investors in such funds will require the detailed fact sheets mentioned above, and the production of KIIs will be a cost with no benefit. We therefore do not believe that CESR could justify such a requirement.

6. *Do you think that CESR's proposals on general presentation are appropriate?*

We support the proposals for a document which is short, succinct and written in plain language, and we support the statements in paragraphs 4.12 and 4.13 of the CP on the general format, style and degree of harmonisation. It is vital that this document is produced and utilised in a consistent format across Member States, to enable investors to compare funds and to reduce production and administration costs for those firms that promote their funds cross-border or have multiple fund ranges domiciled in different European jurisdictions.

We also generally support the further articulation of these principles in paragraphs 4.14 to 4.20, but have some comments on the detailed list in the table in paragraph 4.16.

- Is the term “management company” meant to be the fund operator (which is the entity falling within the scope of the UCITS Directive) or the appointed investment manager (which in the UK and in some other Member States is most commonly a different entity)? We suggest that the name of the fund operator should be required to be disclosed. On balance, we believe the name of the investment management firm should be disclosed, too, as it is the investment manager's skill that produces the fund's performance and that manages the investment risk.
- We do not understand why the “promoter” or “group” should be named. Who owns the fund operator is not relevant, and there will commonly be a multiplicity of “promoters” (ie the various distributors). As drafted, this entry in

the table reflects a bank-dominated view of the fund market, which is outdated and in some jurisdictions incorrect.

- What is meant by “*how to buy and sell units*”? If it is a statement about the range of options available to the investor in addition to approaching the fund operator/depositary/transfer agent direct, then other than giving the contact details for this entity (or entities) the statement will have to be very generally drawn as the options will be numerous. This will take up unnecessary space and is not fund specific. Also, the proposals are silent on where the contractual information should sit as regards the activity of processing the deals in fund units. We do not propose that these “terms of business” should be in the KII, but it is essential that the KII directs investors to them or that operators be allowed to append them to the KII. (See also answers to questions 9 and 14.)

There may, also, be an issue with the restricted length of the KII for funds that have special features, such as guarantees or capital protection or other forms of structuring.

7. Should CESR propose adopting a more prescriptive approach, for instance using detailed templates, or should it support a less prescriptive, more principles-based approach?

The approach as proposed adopts a sensible balance between prescription and principles. What is needed is a clear outline of what should and should not be in the KII, the relevant amount of space allowed for the various items, and that it is a maximum-harmonised document. Our comments are therefore on the detail of the content and not the overall approach, other than in relation to scope (see answer to question 4).

8. In relation to the proposals on content, should Option A (with fewer items) be favoured compared to Option B?

9. How should both options best be tested with consumers?

See our answers to questions 6 in relation to Option A

We suggest that the disclosure of risk and performance are priority areas for consumer testing. The industry, CESR and knowledgeable parties representing other interests ought to be able to take an informed view on the items listed in Option B and we question the benefit of consumer testing the detailed points listed under Option B.

IMA's views on these items are:

- *Name of Group* – not necessary because irrelevant (see above)
- *Name of auditors* – not necessary in the KII
- *Where to complain* – we agree that the landscape is now too complex for the KII to provide a succinct summary. This is one of the reasons we favour disclosing the fund's competent authority, who can direct investors according to their circumstances (see answer to question 11). Clearly, the fund

operator or distributor will do likewise, but investors may wish to be provided with an independent and official route, too.

- *The cut-off time for dealing instructions* is one of the various pieces of information that are contained in firms' terms of business ("ToB") as regards the activity of dealing in/processing deals in fund units – see answer to question 6 (third bullet). However, many investors invest via intermediaries, who will impose their own cut-off times in order to ensure they can communicate block deals to the fund operator/transfer agent in time. It is therefore both not relevant to an investment decision and will vary from investor to investor depending on their chosen route to effect investment. It should not be included in the KII.
- *Information on the existence of other share classes* – if the other share classes are not intended for retail investors, then disclosure of them in the KII is otiose and should not be required.
- *For umbrella funds, whether sub-funds are not ring-fenced/within a protected cell structure* – generally, investors will have no way of understanding what such a statement means. Therefore, whether or not this information should be included in the KII depends on the answer to a different question: what will regulators do if the KII does not include such a statement and a non-ring fenced umbrella encounters difficulties, or if the KII includes a statement that the fund has a protected cell structure but some combination of extreme events brings into question how watertight that protection is? If regulators cannot provide public assurances that in such circumstances fund operators will not be found to have misled investors on this point, then the KII must include both such a statement and a caveat as to its meaning.
- *The date of creation of the fund* – is irrelevant other than that for newer funds, which need to make a special disclosure in the section on fund performance. Also, a recent creation date may be misleading if it is actually the date that a merger of two funds took place that had long histories. Therefore, rather than requiring all funds to give a creation date, the fact that a fund is new can be disclosed in the performance section.

10. Has CESR correctly struck the balance between reducing the information provided and ensuring investors receive the key messages they need?

Broadly, we agree with CESR's proposed approach, subject to the detailed comments we make elsewhere in this response. In considering feedback to this consultation, we would urge CESR to keep in mind the aim of the KII – to provide sufficient information for investors to make an informed investment decision. A number of data items mentioned in the CP are not relevant to that aim, so should not be included.

11. Should the competent authority of the fund and the tax regime of the fund in its Home Member State be included?

We believe the name of the competent authority to be an important piece of information for investors, as is the domicile of the fund. Both these pieces of information will take up little space in the document

If the domicile is disclosed, then it would be reasonable not to require information on the tax regime applicable to the fund itself, as such information may necessarily involve several sentences, and even then will be of no real assistance to non-tax experts and tax experts alike. Given that space is at a premium in the KII, there is better use for it in disclosing risk, performance and charges.

12. Do you think other items of information are necessary? If so, which ones in particular?

See our answers to questions 6, 8 and 9.

There is also the question whether the KII should indicate a key source of information on the current price of the fund. Clearly, investors could be directed to the fund operator or the operator's website. The difficulty with adding details of additional named pricing venues is that they may be relevant only to one particular Member State. We suggest, therefore, that the KII should not require any references other than to the fund operator, whose contact details are given at the beginning of the document.

13. Do you agree that distribution costs should not be systematically 'unbundled' within KII? Should there be flexibility to allow this where appropriate?

We provide detailed comments in answer to question 38 onwards, but would note here that the primary obligation to disclose inducements must lie with the distributor and that the fund operator may not know whether any or how much commission is rebated by the distributor to the investor. Also, the distribution landscape and distribution costs and charges vary significantly around Europe. It is therefore not possible to prescribe an approach for all funds and there should be no disclosure requirement in the KII.

14. Does the proposed approach to local information (a harmonised section for local information within KII that would be precisely delineated) achieve a correct balance between the need for local information and the smooth functioning of the passport? Is a more radical approach (e.g. signposting local information to a website) feasible and appropriate?

We find the references to "local information" confusing. There is a question about where the terms of business ("ToB") for processing deals in fund units should sit. If this is what is meant by local information (as indicated in paragraph 4.25 of the CP), then see our answer to question 6 (3rd bullet). This information may be relevant only where the investor deals direct with the fund operator or transfer agent. Where the investor deals via an intermediary, then it is the intermediary that will need to issue ToB under MiFID. But both these points hold whether the investor is domiciled in a different jurisdiction to the fund or the intermediary – hence, our confusion with the reference to "local" information.

The KII cannot include others' (ie intermediaries') ToB, but there is no reason why the ToB of the fund operator/transfer agent should not be appended to the KII or signposted by it.

More generally, we urge that the KII be a maximum-harmonised document. Allowing "local information" to be included, or even stipulated by national authorities, will undermine this.

15. Should a 'building block' approach be permitted, whereby providers can produce different parts of the KII separately?

The IMA agrees with the points CESR makes in paragraphs 4.31 to 4.34. We would make two further points, though.

First, given the space constraint of the KII, we believe firms will want, and should be encouraged, to make available more detailed information on each of the aspects covered in the KII. For example, if an investor wants more information on the underlying risks of a particular fund or a more detailed explanation as to why the performance figures follow a certain pattern, then it seems entirely reasonable for the KII to include a general reference to where to go for further information (eg the fund operator's website).

Secondly, we believe it important that firms can refer investors to documents that describe in general terms the risks and reward of investing (ie educational type material). We know from our own discussions with firms and advisers that investors find this sort of material useful in order to put into context the information contained in the current SP, and we believe this will be true for the KII, too.

This is not about "building blocks" as such, nor is it about "unpacking" the KII, but it is about the ability to signpost investors to additional information (generic or more detailed and fund-specific) in order to meet their needs. The KII should allow this to continue, and we would urge CESR to encourage such information provision.

16. Do respondents agree with the proposed treatment of funds of funds?

We agree with CESR's approach.

17. Should separate KII be produced for each sub-fund of an umbrella? Should providers be permitted to produce a compendium for all the sub-funds of an umbrella if they wish?

We agree that a KII should be required to be produced for each sub-fund that is marketed to retail investors, but it should not have to be produced for other (non-retail) sub-funds.

A number of firms currently produce compendium SPs for the various sub-funds in an umbrella, in order to avoid some of the duplication of information that CESR acknowledges. It is important that this flexibility be retained.

18. Do respondents agree with the proposals for treatment of unit/share classes? In particular, should providers be permitted to produce KII featuring a representative class?

We disagree with the statement in paragraph 4.48 of the CP that “*The starting assumption is that the KII requirements will be applicable to every class within the UCITS.*” There can be no regulatory justification for imposing such a cost for institutional share classes which will deliver no benefit. As stated above, such investors require more detailed information from fund operators and the KII will be irrelevant to them.

We agree, however, with the proposed approach outlined in paragraphs 4.49 to 4.51 if it were applied only to retail share classes. This draws a sensible balance between principles and prescription.

As regards the question in paragraph 4.52 of the CP on representative charge (which is not a numbered question), we suggest that rather than stipulating that only the highest overall charge be disclosed, the range of charges be disclosed and further information be signposted.

Overall, we would urge CESR to adopt a flexible approach so that operators can develop solutions that are compatible with the aims of the KII.

19. Do you think that CESR's proposals on the presentation of the strategy and objectives of a fund are appropriate?

20. In particular, is it relevant to merge strategy and objectives into one generic item?

We agree with CESR's approach.

21. Is the streamlining of the current applicable Recommendation relevant for the purpose of focusing the description on key elements? Do you agree with the addition of new key items to mention within that section: guarantee, period of holding inappropriate if any, design also for retail non-sophisticated investors?

We agree with the overall approach proposed, but have some comments on the detail (see answers to succeeding questions).

22. More specifically, do you agree that it should be required that in case the capital is not legally guaranteed, the term 'guarantee' should not be used in the KII, and it should be briefly mentioned to investors how the protection is achieved? In case the capital is legally guaranteed, do you agree the guarantor should be mentioned? Do you agree that it is not necessary to mention explicitly that a fund is not capital guaranteed?

We agree that the term “guarantee” should not be used unless there is a legal guarantee, in which case the guarantor's name should be given as well as a brief description of the extent of that guarantee.

Where the fund's investment objective is to produce a certain level of return or constant NAV, then this should be explained, in relation to the reduction in or

likelihood of underlying/downside risk and the effect of that on (upside) performance.

We agree that it is not necessary to mention explicitly that a fund is not capital guaranteed or protected, which is the case for the majority of funds. Importantly, this is consistent with the general message that investors should receive about the risks of investing versus the potential rewards.

23. Do you agree that mentioning whether it would not be appropriate for the investor to invest into the UCITS, if he anticipates the need to redeem within a defined time period to be stated, is the appropriate way to deal with time horizon issues without leading to misunderstanding?

We disagree with the suggestion that there should be any mention of a quantitative time period, however couched. There are a number of basic points that consumers need to understand about the activity of investing. But the KII, as stated clearly at the beginning of the CP, is not an educational document. It is therefore not for individual KIIs to educate investors on the need to view investment as a medium to long term activity.

If regulators have general concerns about consumers' financial knowledge, capability and confidence, then this needs to be addressed in a different way. The IMA already provides some general information for consumers on investing, and is willing to share those outputs with CESR and to adapt them to reflect the new KII requirements when they are finalised.

24. Do you agree that giving management companies the opportunity to flag funds that have not been designed for non-sophisticated investors, with no legal consequences, would help in preventing missellings, especially in the case of 'execution only' subscriptions?

We disagree with the introduction of a new regulatory term, "non-sophisticated", as it would lead to confusion as to whom UCITS funds are suitable for. Moreover, we question whether or how CESR can give assurances that there would be no legal consequences for the fund operator.

We also disagree with the current requirement to give a "typical investor's profile". Again, CESR makes clear that the KII should not be viewed as an educational document. It is not the degree of sophistication of the investor that makes an investment more or less appropriate for him, but their financial profile: existing savings and investments (quantum and diversification), liabilities and risk appetite. What is important, therefore, is that the risk section be well-presented and informative (see our comments below). Consumers should be directed to general information on investing and to seek the services of a professional financial adviser. The KII cannot act as a proxy for these, and certainly not given the length restriction.

25. Do you agree that the presentation of a synthetic indicator should be favourably tested with stakeholders and consumers?

- 26. What specific presentation (icon, working, numeric scale ...) should be favoured, and if so on what basis?**
- 27. How prescriptive should regulators be for the choice of a methodology, given that it should take into account largely shared risk management practices and suit investors' perception of risks?**
- 28. Are you aware of any specific existing calculation methodology that should be proposed?**

We do not support the idea of a synthetic risk indicator and continue to favour the use of a narrative approach.

Most consumers, if offered the option of a simple indicator to aid decision making, will say they want it. But that does not mean that they will make better informed decisions or that they will use the indicator wisely. There is much research that shows that consumers tend to select "middle ground" options. They are therefore likely, absent other information or advice, to select funds with a middle ranking indicator, which may not be the best option for them. We would urge CESR to recognise that a simple indicator could encourage ordinary consumers to assume that investment decisions are simple.

Synthetic risk indicators are, or their nature, constructed from past performance data. As noted in the discussion on the inclusion of past performance information, it is not an infallible guide to future performance. It may give reasonable pointers in the case of fund invested long-only in particular asset classes, but it may not do so for funds with more complex investment strategies or special features. There have been cases of other products that have exhibited low volatility over long periods, only to collapse catastrophically when conditions change.

We therefore oppose a requirement to use any form of synthetic risk indicator. In particular, we have serious reservations about one method that has been debated by CESR: the Guise method. It purports to indicate the total amount one might lose, but gives non-sensical results in relation to most funds and does not adequately cater for funds that use derivatives, which are a significant and growing subset of UCITS.

It is important, however, for investors to understand the risks inherent in any financial product. We therefore believe that narrative disclosure would be the appropriate way forward and that work should be carried out to develop standard forms of words to describe: a fund's investment objective, the risk/reward trade-off and any special features such as capital protection.

- 29. Is the suggested assessment grid Annex 4 for methodological and presentation issues appropriate and sufficient for identifying a relevant methodology?**
- 30. How could the potential limitations of the quantitative calculation of a synthetic risk/reward indicator be further mitigated?**

31. Do you agree that the possible limitations to a risk/reward indicator might be effectively communicated to consumers through textual warnings? Is the proposed wording appropriate?

As indicated above, we consider that narrative disclosure of risk is a more appropriate approach than a synthetic risk indicator.

Importantly, what is missing in the proposals is a clear textual link between risk and return. At the very least, all KIIs should include a simple sentence that links the two sections.

32. Which funds or which risks might not be adequately captured by a quantitative methodology?

33. Could the display of scenarios or tables illustrating the behaviour of formula funds enhance the information disclosed for those funds? Do you think that such presentations should be limited to formula funds? Do you think that such presentations might have some misleading effects, might be manipulated, or mistaken for a guarantee? How could these be addressed and reduced? Do you think that such disclosure should be made in a harmonised way? What could be possible ways of showing prospective scenarios?

There is, relative to the total number of UCITS, only a small number of funds which have special features. Examples of such funds include those with some form of protection (where, in effect, downside risk is reduced, but at a cost, and therefore there is an impact on potential return), and so-called “formula funds” and “life style” funds. We suggest that the industry be requested to consider these various subsets of funds and offer recommendations as to how their risks might be portrayed before any consumer testing takes place.

It is clear that funds with special features are unlikely to be able to fit all the relevant risk information (however succinctly drafted) into one-third of one A4 page. The proposed KII length restriction will be a particular issue for these funds. The only practical way forward is clear disclosure that the fund has special features that do not fit within the methodology for the standard numerical scale and a signpost to more detailed information.

34. On the narrative side, do you agree with the suggested high-level principles?

We agree with Principles 1, 2, 4, 6 and 7 in paragraph 6.9 of the CP.

We agree that risk should be communicated in the KII, but not as set out in Principle 3 (see above).

We disagree with Principle 5. The CP makes clear that the KII is fund-specific and is not designed even to provide information on the impact of holding the fund within a wrapper. It would therefore be inconsistent with this overall approach to require the KII of a fund to refer to the potential feature of other funds or products.

While we accept that there needs to be some restriction on length, we are concerned that the current proposal is impractical and effectively will force regulators and operators to resort to misleading simplification of investment risk in order to fit the description within the prescribed length.

35. Is CESR correct to recommend that information about past performance should be included in the KII?

We agree with CESR's conclusion in paragraph 7.12 of the CP that past performance information should be included in the KII.

36. Has CESR identified the right areas and ways in which this information should be standardised?

37. Which charges should performance figures take into account? For instance, should figures include allowance for subscription and redemption fees?

We agree with CESR's recommendation that a standardised approach should be adopted. Moreover, such an approach has already been agreed within the European industry under the auspices of EFAMA.

We also agree with the recommendations in paragraph 7.19 of the CP. The information should be based on the NAV of the fund (which is net of all annual charges) and is best presented in the form of a bar chart based on 12-month figures. We also continue to support the use of cumulative returns over set periods (eg 3, 5 and 10 years). Performance figures do not, though, and cannot include subscription and redemption fees, which may differ from investor to investor depending on any arrangement with the distributor.

All figures should be shown in percentages. We note some commentators' concern that the majority of consumers do not know how to calculate a percentage, but we refute suggestions that the majority of consumers do not understand that eg 10% is more than 5%, or that 1.5% is less than 2%. Furthermore if any consumers find percentages difficult to compare, then it is highly questionable whether they should be taking investment decisions on their own on the basis of the KII. That is why CESR is right to assert that the KII is not and should not be an educational document.

There are industry norms for all the issues listed in paragraph 7.22 of the CP, and we suggest that the European industry, under the auspices of EFAMA, be requested to draw up a document setting out the standard approach.

Finally, we would note that there should be no requirement to compare performance against a benchmark if the fund is not managed against one, and that performance data should be allowed to be shown in the appropriate reference currency.

38. Has CESR identified the best overall options for including information about charges in the KII?

39. Should a 'consolidated' charges disclosure be included, and how should it be described?

40. Should options for the disclosure of charges in cash terms be explored further?

41. Do you have any comments on how charges should be organised (e.g. between charges relating to subscribing and redeeming units, ongoing fund charges, and contingent charges), labelled (e.g. 'initial charges', 'exit charges,' 'ongoing charges') and the accompanying narrative messages regarding what they include or exclude? How much detail is necessary in a document like the KII?

We believe that the opening sections of Chapter 8 of the CP provide a useful summary of the issues and of concerns commonly raised.

In identifying the way forward, we would urge CESR to keep firmly in mind its position that the KII is not and cannot be an educational document, and that it is fund-specific only. If consumers cannot understand a simple comparison of percentages or that the longer one holds an investment the more the impact of any initial charge is spread, then it is highly questionable whether they should be undertaking investment decisions on their own on the basis of a two-page KII.

There are numerous documents and websites that explain these points and a number offer a simple calculator so that one can see the effect of the spreading of initial costs according to how long one holds the fund units.

Moreover, given the degree of intermediation in the retail market, it is common for investors to pay something other than the initial fee quoted in a fund's documentation. Therefore, for the majority of investors, a composite charges figure will be incorrect and misleading.

Investment is not simple and regulatory requirements should not lead consumers to believe it is. Option A is the only sensible option for the KII.

42. In relation to the handling of ex-post and ex-ante figures, is it appropriate to include only a single figure for ongoing fund charges in the KII, and if so, on what basis? Do stakeholders have any particular views as to the handling of such information?

43. How should situations where there is a material change in charging levels be addressed?

A single figure based on ex post information is the only sensible way of fitting within the length restriction of the KII and of ensuring consistency and comparability between funds. IMA has issued guidance to its members on the calculation of TERs and would be happy to share this with CESR if that would be useful in its further deliberations.

Where there has been a material change to any charge, there should be a requirement that the KII be updated immediately and re-filed with the national regulator, but there is no call for the regulator to re-consider the document.

44. *Should portfolio charges be included or excluded from the disclosure of ongoing fund charges? If they should be included, how should assets for which transaction charges are not readily available be handled?*

The question of whether to disclose portfolio transaction costs to investors was recently considered in the UK. The feedback was that even reasonably knowledgeable investors did not readily understand the figures or how to compare them from one fund to another. Moreover, the costs to the fund of investing in its underlying assets are reflected in the fund's performance data.

For knowledgeable investors, information on transaction costs is included with the annual report and accounts. It is also provided to the fund's depositary on a regular basis.

Therefore, we do not agree with the inclusion of portfolio charges within the KII.

45. *Has CESR identified the best option for handling performance fees in the KII?*

We agree that the existence of performance fees is important and should be disclosed in the KII. Given the variability in their application and calculation, we suggest that the only practical option is for the KII to provide a simple statement of their existence and basis, and provide a signpost to where a more detailed description can be found.

46. *Do you agree that CESR should recommend that charges are disclosed on a maximum basis?*

We agree.

47. *Are there any options for providing more accurate information, in a way which consumers might understand, about charges under different distribution arrangements?*

We would urge CESR to adhere to its position that the KII should be fund-specific and not seek to cover situations where the fund units are held within some form of wrapper. Similarly, the KII should not seek to provide numerical information on the impact on charges under different distribution scenarios. Not only are those scenarios too numerous to cover, they may differ from investor to investor.

The KII should contain a simple statement that investors may pay lower charges and that they should refer to the distributor/adviser.

48. *Do you agree that CESR should recommend that charges for a feeder fund and its master be combined into a single disclosure in the KII?*

We agree.

49. *Do respondents have any comments on the proposals for consumer testing?*

See our answer to question 9.

- 50. Do respondents have any initial views on the one-off costs of replacing the SP with KII?***
- 51. Do respondents have any initial views on the on-going costs of KII, compared with those currently indicated in producing the SP?***
- 52. What, if any, transitional arrangements should there be if the SP is replaced with KII?***
- 53. Is the gradual introduction of KII feasible?***

It is difficult to reply with any precision to these last questions until there is a little more clarity on the content of the KII.

SPs are regularly reviewed and updated (eg annually). The introduction of the KII could fit within this timeframe. There will be material costs in introducing the KII and explaining the new document to investors; regulators need to play a role in the latter activity to relieve the burden on the industry and distributors.

Ongoing costs will be reduced only if there is maximum harmonisation.