IRISH FUNDS INDUSTRY ASSOCIATION

IFIA's Response to CESR's consultation paper on technical issues relating to Key Information Document (KID) disclosures for UCITS

The Irish Funds Industry Association (IFIA) is the industry association for the international investment fund community in Ireland, representing the custodian banks, administrators, managers, transfer agents and professional advisory firms involved in the international fund services industry in Ireland. Given that as at the end of March 2009 there were total Assets under Administration of €1.4 trillion, with 3,054 Irish domiciled UCITS funds, including sub-funds, with a Net Asset Value of €511 billion, all developments in the UCITS arena are of particular interest and relevance to the Irish industry.

We welcome the opportunity to comment on CESR's consultation paper and are generally supportive of the European Fund and Asset Management Association's (EFAMA) response to this consultation paper. Given Ireland is a domicile and administration centre for investment funds, IFIA member firms are not directly involved in the distribution and sale of investment fund products to the end investor and hence find themselves one step removed from the sales process. However, we would like to offer the following general observations with regard to the consultation paper.

RISK AND REWARD DISCLOSURE

In terms of the testing of risk reward indicators with consumers, we would suggest that due weight should be given to the very high probability that consumers will be inclined to favour the use of a synthetic risk and reward indicator on the basis that it is simple and less burdensome than a narrative disclosure. This should be taken into account in testing and analysing test results, as a consumer preference shown towards a synthetic risk and reward indicator versus a narrative approach is not commensurate with a synthetic risk and reward indicator being in the best interests of consumers.

Regarding synthetic risk and reward indicators we would like to make the following general observations:

- It is difficult to envisage how assigning numbers or metrics to risks would be an effective means of disclosure of all relevant risks involved; a risk indicator alone cannot cover adequately all risks related to the fund (and in particular liquidity and counterparty risk), regardless of the methodology employed;
- At a particular point in time one type of risk maybe more prevalent than others e.g. liquidity, the synthetic risk and reward indicator approach would not appear to address this, whereas a written disclosure would provide the opportunity for an investor to focus on a particular risk.

- Use of a synthetic risk and reward indicator may place undue emphasis on a risk which might be the most relevant to that particular fund;
- The prospect of successful application of a synthetic risk and reward indicator would pose significant difficulties in terms of over reliance and potential misunderstanding;

If a synthetic risk and reward indicator is to be used, consideration might be given to the use of some form of combined synthetic risk indicator and narrative description with a facility for signposting where more detailed risk information may be found, either in a full prospectus or perhaps on a website. On occasion where a synthetic risk indicator approach is unsuitable for a particular fund there should be provision for that fund to disclose this as part of the KID and include a simple narrative description.

PAST PERFORMANCE

It is proposed that the past performance section should take up no more than half a page of the KID. However, this could possibly restrict the ability of a fund to issue a KID at umbrella level. For example, certain umbrella funds will have a number of sub-funds and it would be unrealistic to expect the umbrella fund to present past performance data in respect of all sub-funds within the required half-page. This issue should be considered further in respect of umbrella funds with multiple sub-funds and also in respect of funds with multiple share classes where similar issues would arise. It is suggested that umbrella funds with multiple sub-funds and funds with multiple share classes should only need to disclose one sub-fund/share class and indicate on the KID where information is available for other sub-funds/share classes.

Considering the presentation of past performance data relating to a period prior to a material change of investment policy, it is suggested that an investment manager should have the flexibility to choose either ‘Good Practice 1’ or ‘Good Practice 2’ (as referred to in the consultation paper) in the context of a particular fund rather than being required to adopt one approach in all circumstances.

In respect of mergers through absorption, we agree with CESR’s recommendation that the KID should only contain the past performance of the absorbing fund (even though it will be necessary to disclose the fact that a merger has taken place).

It is believed that a restriction on providing fund performance in the KID unless at least one year of data is available could be problematic. If fund performance of less than one year is not disclosed it is possible that dissatisfied investors could potentially accuse promoters/managers of withholding information. Should the Commission follow CESR’s advice, Level 2 legislation should clearly reference this restriction.

PERFORMANCE SCENARIOS

If the purpose of performance scenarios is intended to provide information on risks then it would seem they would more appropriately belong in the Risk and Reward disclosure section. If so, the use of performance scenarios could then be considered redundant.

In addition, caution is needed when considering the use of performance scenarios as they could possibly give investors a false sense of security and be interpreted as almost guaranteeing certain results.

CHARGES

In relation to the overall presentation of charges it is felt that Option A is the most appropriate, as this would provide an improved version of the current approach, outlining separately the entry/exit fees, the ongoing charges and the presence of performance fees. We could foresee potential issues with the inclusion of a summary of charges, either in percentage form or in cash terms, as assumptions would have to be made regarding the holding period. Where a fund is distributed in more than one jurisdiction and by more than one distributor entry and exit fees may vary by Member State and distributor, as such a summary charge could be misleading.

In addition, it is understood that in some Member States the exact fees paid to intermediaries must be presented to fund investors and this creates a potential danger that investors could add the two together (although the distribution fees are actually part of the costs in the KID, and not paid on top of them).

We hope our comments to the consultation paper will be of assistance to CESR and remain at your disposal for any clarification or assistance that we may be able to provide.

Irish Funds Industry Association
15th May 2009