



ABI response to CESR Call for Evidence

Key Investor Disclosures for UCITS

General call for evidence

The Association of British Insurers (ABI) represents nearly 400 member companies, which between them provide 94% of the UK's domestic insurance. It works on behalf of the UK insurance industry to keep standards high and to make its voice heard. Many ABI members offer UCITS funds and it is becoming increasingly common for insurers to package UCITS funds within unit-linked life contracts.

The ABI welcomes CESR's call for evidence regarding investor disclosure information. We agree with the European Commission that the Simplified Prospectus (SP) is ineffective and of limited value to investors. So we support the objective of replacing it with a new simpler, standardised document, which contains key investor information (KII).

The issues in the three calls for evidence are closely related, so we are submitting a single response.

Call for evidence for retail investors and representatives of individual retail investors

CESR has specifically directed this call for evidence to consumer representatives. We agree that proposals should be developed in consultation with consumer groups, and alternative approaches should then be subject to consumer-testing. However, CESR should also seek evidence from providers of UCITS about the content of the KII document. In particular, it should take account of the potential costs and benefits of alternatives. Recent research¹ by the UK's Financial Services Authority (FSA) concluded that proposed changes to point-of-sale disclosure for insurance products could not be justified, because the likely changes in consumer behaviour were not sufficient to match the large costs.

The ABI agrees we should aim for a short plain language KII document, including key information only. We suggest that consumers need to know the basics on investment strategy, charges, risks and potential returns, so these elements should be included. Information about past performance over the last 5 years should also be presented in a standardised format. ABI commissioned research² has found that (general insurance) customers are less interested in more detailed regulatory and legal information, so this

¹ *Investment disclosure research*, Financial Services Authority (2006).

² *Market impacts of regulating general insurance*, CRA International (2006).

should not be included in the KII. But it should include a clear signpost to further information should the investor require it.

CESR and the European Commission should seek to harmonise the content of the KII, perhaps by developing a broad template. National regulators should not be allowed to use additional local requirements to prevent the use in their jurisdiction of KII documents that meet the EU level requirements. This has sometimes been the case with the SP.

However, we do not think that absolute uniformity of content is necessary. Where appropriate, the requirements should be principles-based and not overly prescriptive regarding format/presentation. The comparability of funds will be enhanced if more people are stimulated to read the KII document. UCITS providers should therefore have some flexibility to tailor the information to meet the needs of their customer base. It could, anyway, be very hard to agree a single standardised approach to risk disclosure, given that different styles of communication have become established in different Member States. There should also be scope for industry initiatives to help improve disclosure documentation – for example, the ABI's Customer Impact scheme has enhanced the standard of our members' disclosure documentation.

Call for evidence on UCITS distribution

To assess the appropriate level of consumer protection for retail investors in UCITS (and products investing in UCITS), we agree it is important to understand the different ways in which they are distributed, and how these trends differ across Member States.

Distribution channels

We agree with the three broad categories outlined in CESR's consultation paper – the investor may purchase directly from the provider; from an agent tied to the provider; or from an intermediary. In the UK, there is considerable diversity within each of these channels. For example, a tied representative will sometimes offer an advisory service to the customer, but on other occasions he/she will not. Technology is also impacting upon distribution – there is a growth in “wrap platforms” and “fund supermarkets” which enable customers to choose between a range of funds and assets, with or without the help of an adviser.

However, the dominant distribution channel for UCITS (either direct or packaged within unit-linked life insurance contracts) remains Independent Financial Advisers. FERI-Fund Market Information research³ found that in the UK, almost three-quarters of retail investment funds are distributed via

³ *Financial Risk Outlook 2006*, Financial Services Authority (2006).

advisers, with 16% via insurance wrappers and 9% through bank networks. This contrasts with the dominant role of banks in other EU markets.

The provision of point-of-sale information by both the provider and the distributor is regulated by the FSA (in some cases this is underpinned by EU Directives). This is the key determinant of the information provided, rather than the nature of the commercial relationship between the provider and the distributor.

Packaging of UCITS funds

The UK retail investment fund market is well-developed. There is considerable diversity in the way funds are packaged and distributed. For example, in recent years there has been significant growth in sales of unit-linked life insurance products. It is becoming increasingly common for insurers to offer access to UCITS funds within life insurance products. Sometimes it will be a pure “wrap” and on other occasions, the UCITS fund will be one of a number of investments within a life/pension fund. This growth in “open architecture” is positive for consumers as it enhances consumer choice, both in terms of product design and asset management.

We note that CESR’s emphasis in this consultation is on the UCITS component of retail funds/products (e.g. CESR asks whether information about the underlying UCITS fund is made available to retail customers). We agree there is work to be done to address the weaknesses of the SP and that should be CESR’s focus.

However, the consultation also addresses the packaging of UCITS funds within products, and suggests the KII document might have a role here too. For some products, and from the consumer perspective, this is not the right starting point. Customers identify with tax or product wrappers (such as ISAs or stakeholder pensions) rather than the “UCITS brand” *per se*. In addition, the risks and charges of the retail product may differ from the UCITS fund. Any life insurance contract will include an element of life protection cover. So any discussion about the appropriate disclosure documentation for customers should focus on the final retail proposition rather than the UCITS “layer” of the product.

In the UK, conduct of business regulation of unit-linked life insurance is broadly similar to UCITS regulation. Providers must disclose information on risks, charges, product features etc within a Key Features Document. We think this is a better approach than requiring a SP to be made available for all products where there is an underlying UCITS fund.

There has been recent debate about the appropriate level of EU-level disclosure regulation for unit-linked life insurance products. In its Asset Management White Paper the Commission correctly noted that much of the commentary falls into the trap of “comparing apples and pears”. A unit-linked

life product is a contract between a policyholder and an insurance company, while a UCITS investor is the beneficial owner of an interest in a fund. There are also critical differences in tax treatment and capital requirements.

No cost-benefit case has been made for changes in EU regulation of unit-linked life insurance. But the ABI is happy to participate in an informed debate about appropriate levels of disclosure regulation. So we urge the Commission, CESR and CEIOPS to work together to address this issue in a coordinated and systematic way.

In the UK, the FSA has recently proposed changes to disclosure regulation for unit-linked life products to make it more principles-based. If the European Commission does make future proposals in this area, it should take a similar approach.

Fund structures

The ABI has no comments on CESR's questions regarding how UCITS funds are structured.