

SIMPLIFICATION OF UCITS PROSPECTUS
COMMENTS IN RESPONSE TO CESR QUESTIONNAIRE

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INTRODUCTION

Those who distribute financial investment products to investors usually make the mistake (as we can define it) of focusing on service features (also by means of detailed illustrative exposures) and neglect the fundamental goal: those products must (should) enable the investor to achieve his financial and economical purposes.

It is therefore essential that an accurate “diagnosis”, through a careful and professional advice, is carried out before the analysis of the therapeutic tools. The advice shall be aimed at identifying the investor’s “social-financial features” (earning and saving capacity, propensity to risk, previous investments, real estate investments, etc.), but also (and above all) at detecting his planned expenses over the short, medium and long term, taking into account the decisions already taken by the investor.

The detection of planned expenses – nearly always neglected – is of fundamental importance, seeing that we are talking about financial products that tend to accrue, i.e. yield its fruits, some years after their subscription (from three to ten, depending on the market trend).

Since the “classic” attitude of financial salesmen or bank fellers is to acquire immediately the client portfolio, distributors consider the detection of future, consistent and planned expenses as an obstacle to contract conclusion. Before the conclusion of the contract, the tendency is to ignore that information and, therefore, not to highlight the temporal characteristic of the proposed product’s accruing.

Such an attitude must be strongly opposed since it could entail serious and painful financial damages. It is therefore crucial to inform the investor that his portfolio may be jeopardized should the proposed investment solutions do not consider the planned expenses.

The attitude to close deal during the first visit makes potential clients subject to psychological pressure. Distributors tend to emphasize elements of immediate understanding (including future returns) and omit features that could “let the customer reflect” and induce him not to sign straight after.

So it is extremely opportune to introduce mechanisms able to avoid the inconvenient described above and require that investment decisions are taken following at least two visits in the distance of at least one week.

It is necessary, in other words, that the prospectus philosophy turns from marketing orientated to the product (an approach that wiser companies have forsaken since the middle '80) into marketing orientated to the customer.

PRELIMINARY SUGGESTION

INCLUSION IN THE PROSPECTUS OF A OPENING PAGE DRAFTED BY THE OVERSIGHT AUTHORITY CESR QUESTIONNAIRE – QUESTION N. 0	The UCITS prospectuses must include a opening page drafted by the oversight authority (graphics of that page must be different from the other pages). This page must: • provide information on the need to read the whole document, seeing that the investment will involve the client and his family for thousands of euros and several years; • inform that the contract can be concluded in the course of two visits: the first one aimed at providing general information and ending with the delivery of the prospectus; the second one at a distance of at least seven days aimed at signing the contract; • describe the cooling off period and its terms; • inform that units will be purchased the first trading day after the end of the cooling off period; • indicate that the value of the funds traded on the security market varies daily (uncertainty on the future security market trend, etc); • summarise the main characteristics of the product; • mention the possibility for the management company to be in conflict of interests; • underline the importance of risk profile assessment and of a good advise; • inform that such a product could not be suitable for the investor if the invested amount should serve to cover considerable future expenses, already planned over the short/medium period; • make it clear that financial salesmen do not manage the invested capital (“Don’t worry, I’ll control your investment...” is a typical expression adopted by salesmen), but only deliver it to the management company. Indeed the investor can not supply cash, delivery checks or carry out bank transfers apart from those addressed to the management company as beneficiary; • refer to the laws and articles concerning advice and
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	the product; • provide details of the oversight authority; • indicate the website pages where the relevant legal texts and all the documents concerning the services offered to the investor may be founded.
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INFORMATION, CONTENTS, KEY WORDS, GRAPHICS, LANGUAGE

The investor must know that “The best investment at all consists in acquiring information – to the extent useful and possible – about the characteristics of the pertaining market where the investor will spend his money, as well as about the products offered in that market that perhaps he will buy and that may affect his financial conditions for several years”.

The best, simpler and clearer prospectus will be worthless if the potential investor is not motivated to read it, does not perceive that its contents are useful, or is persuaded (maybe by the financial salesman himself) that reading the prospectus is boring, useless and that it is better to trust. So, the prospectus must let investors appreciate that such document does not consist of a mere informative description, but it also has the purpose of underlining and remarking the rights and duties of both parties as arising from the conclusion into the contract.

It is therefore necessary to abandon the conception - which is a bit lazy under an intellectual perspective - that the “simplified prospectus” is merely a prospectus “less voluminous” than the full prospectus. Equally, the conception that “transparency” is proportionate to the number of pages provided to the potential client must be overtaken.

Simplicity, transparency and ability to synthesis are “professional” characteristics that not all the operators want (or can) show off.

We must in fact clarify that a simplified prospectus means a prospectus whose contents are attractive, clear, accessible and easily understandable by an investor not skilled in the field of investments, but willing to acquire the basics of a product that will affect his financial position, that “puts the hands in his pocket”. While we can not consider as “simplified” that prospectus (even if “squeezed” in a smaller number of pages) whose contents are graphically unapproachable, intellectually not accessible for those who do not possess the relevant linguistic codes; or which includes non-essential or useless information or information hidden under misleading headings; about which the same financial salesman appears reluctant.

The problem of prospectus readability derives from a typical defensive and elusive behaviour of intermediaries. According to such approach (that is in my opinion groundless), should the document contain all the information, product and market characteristics, recommendations and caution (that we suggest later on), few products would be sold. Two alternatives are envisageable: quality of services is bad and it is attempted not to render them transparent, or products are valid but distributors (as it is the case today) appear not to be duly skilled.

In the first case, it should be the market to neglect crummy products; in the second one, the same market should have to select the more skilled distributors. But such selection is typical of a healthy market, permeated by competition principles; if the selection does not occur, it does mean that market is not healthy and the relevant rules must be revised. Therefore, if a company is confident in the quality of its own services, it should be interested in enabling the client to know deeply the characteristics of the product and use it at best, and should provide him with a “useful” prospectus.

It appears from current prospectuses that compilers do not try to let the reader understand rights and duties arising from the contract. Those texts are qualified - by experts - with the joke: “written by lawyers for aspirants lawyers”.

Please find below answers to CESR Questionnaire in the form of suggestions.

ANSWERS / SUGGESTIONS

1) PAGE WRITTEN BY THE AUTHORITY CESR QUESTIONNAIRE – QUESTION N. 0	1) See initial suggestion.
2) A “LOGIC” INDEX/SUMMARY AND A GLOSSARY CESR QUESTIONNAIRE – QUESTION N. 1	2) The logic index/summary must synthetically describe the paragraph contents and not only mention its title. It must be intended to inform the client about the actions that he is taking and it must not be orientated to the product. Its dimensions are irrelevant. Glossary will have to explain the terms and the English diction of common terms codified by experts, even if not used in the document.
3) CONTACT DETAILS OF THE MANAGEMENT COMPANY, FINANCIAL SALESMAN, OVERSIGHT AUTHORITIES CESR QUESTIONNAIRE – QUESTION N. 1	3) The investor must be able to contact independently his potential interlocutors in all circumstances. He must be released from long and difficult researches of phone and fax numbers and contact details. Addresses, phone and fax numbers, e-mails, names of persons in charge and relative roles must be indicated in the prospectus.
4) DISINVESTMENT MODALITIES. DISINVESTMENT SCHEDULE CESR QUESTIONNAIRE – QUESTION N. 1	4) It is pleonastic to inform the investor about the possibility of total or partial disinvestment. It is instead fundamental providing the investor with the facsimile to be sent (first facsimile to be inserted in the prospectus), and with information concerning the use of instruments different from the registered mail. Disinvestment is a fundamental action and investors must be able to carry out it independently. In fact, too many investors think it necessary to contact the financial salesman or to go to the bank in order to disinvest. Considering that the management company must disinvest the day after the reception of the relevant order, if this order is delivered to the window, the employee must give sure notice to the client about the day in which the management company will receive that order. It is also necessary to inform the client that he could verify the settlement day unit value on the newspapers published two days after the settlement day, and not on the day after newspapers.

5) DESCRIPTION OF THE PRODUCT AND ITS FUNCTIONAL CHARACTERISTICS (ELIGIBLE INVESTMENTS, INVESTMENT POLICY) CESR QUESTIONNAIRE – QUESTIONS N. 2, 3 AND 4	5) It should be highlighted that the benefit of detain fund units consists in the possibility to take advantage from operators and analysts who “daily are in the market” on a professional basis and not in the possibility that past returns are re-proposed in the future (the latter information should be absolutely prohibited). It must be clear that several years could elapse before the unit value is higher than the purchase price, allowing recovery of inward charges and investment return. As to the management company’s investment policy, this can be included in the prospectus, but it is difficult to understand its utility beyond the utterance of “good intents on correct and professional behaviour”. On this matter, the MIFID principles could be applied.
6) DESCRIPTION OF SECURITY MARKET AND RISKS FOR THE INVESTOR CESR QUESTIONNAIRE – QUESTION N. 3	6) As a supplement to the opening page drafted by the oversight Authority, it is necessary to clarify that each security value may vary, even if each (shares, bonds, gilts with fix or variable rate etc.) with a different trend.
7) NO APPENDIXES OR OTHER ENCLOSURES INTENDING TO JUSTIFY, OR REMEDY TO, SYNTHESIS INABILITY AND LACK OF CLEARNESS AND TRANSPARENCY CESR QUESTIONNAIRE – QUESTION N. 3	7) The presence of Enclosures or Appendixes is equivalent: - to qualify the information contained therein as minor information; - to consider that information superfluous for the investor; - to consider the investor not interested in it or unable to match up with it. If the distributor considers it opportune to include in a separate document valuations, comparisons, information that on his opinion are interesting, he can always give away this document to the potential client.
8) NO INDICATION OF THE ‘OBJECTIVE’ RISK PROFILE UNLESS IT IS CLARIFIED THAT IT MUST BE ‘MATCHED’ WITH THE INVESTOR’S PERSONAL FINANCIAL POSITION CESR QUESTIONNAIRE – QUESTION N. 3	8) Risk of a fund is only in part directly related to the quality of securities in the portfolio and to the management policy. In fact, it must be adapted to the whole investor’s requirements / objectives / planned expenses. Treatment of this topic is not possible in few lines.

9) SUBSCRIPTION MODALITY CESR QUESTIONNAIRE – QUESTION N. 3	9) It must be clear that, pursuant to the law, financial salesmen can not receive cash. Cheques provided to financial salesmen must be made out to the management company's name and must be "not negotiable".
10) COOLING OFF PERIOD CESR QUESTIONNAIRE – QUESTION N. 3	10) Cooling off period must be indicated as provided for by the law. Procedures and formalities to cancel the contract effects should be clearly indicated (references, addresses etc.). Modalities, formalities and times to obtain the refund of the initial investment in case of cooling off must be described. We suggest including a facsimile of cooling off cancellation letter in the title-page (second facsimile to be inserted in the prospectus).
11) INVESTMENT SCHEDULE CESR QUESTIONNAIRE – QUESTION N. 3	11) It must be clear that the investment will be carried out only the day after the end of the cooling off period. It must describe the exact investment day through an example. It must be clarified that daily values published on newspapers do not reflect the value of the preceding day, but the value of two days before.
12) DOCUMENTS TO BE SENT BY THE MANAGEMENT COMPANY AFTER THE CONCLUSION OF THE CONTRACT CESR QUESTIONNAIRE – QUESTION N. 3	12) It is important that the investor knows what kind of documents he will receive from the management company once carried out the investment (note with the number of units, annual reports, etc.).
13) INFORMATION ABOUT THE DISTRIBUTOR CESR QUESTIONNAIRE – QUESTION N. 4	13) Management company, Investment company, UCITS, Bank, Custodian, Audit company etc. It can include quantitative data and sector rankings. It is appropriate to indicate website pages where further information can be provided.

14) BENCHMARK. FUND PAST PERFORMANCE. BENCHMARK PAST AVERAGE PERFORMANCE CESR QUESTIONNAIRE – QUESTION N. 5	14) The prospectus can include the past performance of the fund, provided that it is accompanied by, and graphically comparable with, the benchmark past average performance. This information allows investors to estimate the management company's worthiness in comparison to the concurrent's average. In the absence of the previous data, there is no point for investors in comparing benchmarks.
15) INWARD CHARGES AND/OR EXIT FEES. PERIODIC MANAGEMENT FEES. SWITCH FEES. INDUCEMENTS CESR QUESTIONNAIRE – QUESTION N. 6	15) The investor wants to know how much the operation will cost. He is not interested in knowing the “expenses directly borne by the unitholders”. He wants to know the amount of periodic fee due to the management company, even if deducted by the portfolio (such deduction appears painless only because it is not remarked). He is not interested in knowing the “fixed expenses” nor those “expenses borne by the fund”, alike the management company would pay in lieu of the investor. The provision of inducements must be accompanied by the provision of “disinducements” to be deducted from the annual management fee. Should the symmetry not be ensured, the lack must be mentioned in the prospectus.
16) FUND TAXATION CESR QUESTIONNAIRE – QUESTION N. 6	16) The tax amount must be indicated. It must be clarified that daily values are already net of taxation.
17) OTHER USES OF THE FUND CESR QUESTIONNAIRE – QUESTION N. 7	17) It is worthless knowing that the fund is used also to allocate the exceeding liquidity arising from other financial services.
18) EU HARMONISATION CESR QUESTIONNAIRE – QUESTION N. 8	18) In light of the (practical) acceleration of the integration process, harmonisation shall be made as soon as possible.

19) FORMAT, GRAPHICS, FONTS, LANGUAGE CESR QUESTIONNAIRE – QUESTIONS N. 9 AND 10	19) Graphics: beyond the contents, format and fonts must have an adequate dimension (also considering that prospectuses may be addressed to elderly people). Graphs inserted in the document must not be “pie charts” but “bar graphs” or “linear” graphs. Language: the document must not include technical terms in foreign languages. It is better to use a paraphrase if an equivalent term does not exist in the national language. Difficulties in drawing up the prospectus are the consequence of a wrong mental approach. Compilers limit themselves to draw up mere and aseptic descriptions and consider the prospectus as addressed to persons that already know the relative information. They do not adopt an “emphatic behaviour” vis-à-vis readers/investors. They consider that reading the prospectus would be useless for the other investors, who do not possess the required “decryption codes”. In other words, we can say that the adopted language will turn out to be the more correct the more it will be able to satisfy comprehension demand induced by the curiosity on the contents.
20) STEPS TO CONCLUDE THE CONTRACT CESR QUESTIONNAIRE – QUESTION N. 11	20) Information must be provided that the contract can be concluded in the course of two visits: the first one aimed at providing general information and ending with the delivery of the prospectus; the second one at a distance of at least seven days aimed at signing the contract.