



CESR Consultation on Key Investor Information disclosures for UCITS¹

Preliminary general remarks

DUFAS² believes the proposals by the European Commission and CESR to replace the Simplified Prospectus with Key Investor Information are of the highest importance, because it is widely recognised that the current Simplified Prospectus does not meet its objective. This is mainly due to the lack of clear, harmonised rules on its contents.

As we have stated in our reply to the European Commission's white paper, we prefer the KII to be a separate document, and therefore, we prefer to call the document a **Key Information Document (KID)**. In our reply below we will refer to the KII as KID.

Level playing field with substitute products

In our view both the requirement of comparability for investors and the need for a level playing field for product providers lead to the conclusion that a rule-based approach is more suitable in this area of disclosure rules than a principle-based approach would be. The rules on content and format (performance presentation etc.) will have to be rule based in order to achieve comparable figures and avoidance of misleading presentations and interpretations.

Structured products such as certificates or unit linked insurance products are substitute products for the retail investor when the objective is medium or longer term capital accumulation. It is of great importance that a document with Key Investor Information should be available for the retail investor for these products as well. A very important reason for pointing this out, is achieving a level playing field with alternative investment products e.g. from (investment) banks, insurance companies. A risk indicator and a KID document tailored to the different specifications of fund competing substitute products, should be introduced similarly. Included should be the specific net return scenarios, showing the (limited) risk/reward elements and restrictions of investment products with certain build-in guarantees, costs of these guarantees, net investments, effect of early redemptions, etcetera. Retail investors must be clearly informed about any price they pay for risk safeguards in order to be able to make a fair comparison with UCITS. If not we fear that this white horse of the European Internal Market will be wiped out by unfair competition of alternative products due to regulatory imperfections. For retail investors, UCITS might be the best protected European brand to buy, but the public will not if less regulated investment products are offered against seemingly more attractive conditions (i.a. due to lack of transparency). Then we may have built ourselves the best and safest investment vehicle, but everybody will use the 'cheaper' alternatives. See also our statements below under questions 32 and 33.

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² DUFAS is the representative association of the Dutch investment management industry and a member organization of EFAMA, the representative association of the European investment management industry. For more information please visit www.dufas.nl



1. Are respondents aware of other research which is relevant to the market and regulatory failures associated with the SP?

DUFAS is not aware of any such research.

2. Do respondents consider CESR's proposals would address the regulatory failures associated with the SP?

By making sure that the KID is a pre-contractual document and by taking a harmonised and more rule based approach, the regulatory failures associated with the SP could be addressed. It is essential that e.g. calculation methods for performance presentation or risk calculation are set by CESR (after consultation) and adopted in a Regulation (not a Directive!) by the Commission. Experiences with the SP showed that a Commission recommendation is insufficient as a basis for harmonised rules.

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?

Yes.

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

We agree with the proposed purpose and scope of the KID. We think however that the potential requirement to *deliver* the document to the investor prior the sale of a product, and not to simply *offer* it, will cause serious problems and needs to be discussed further.

What are the responsibilities of the fund producer in this regard when it's funds are distributed by a third party? Furthermore, it has to be kept in mind that increasingly investors buy products on an execution only basis via internet banking. A high barrier would be imposed if actual delivery of the KID would be required before the investor could conclude it's buy or sell instruction through internet banking. It should be sufficient if the KID is provided on the websites of the producer or distributor (as we already do with the SP).

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

We believe that an exemption for non-retail investors is a far more efficient (both in terms of costs and effort). For the type of investors to be exempted, we refer to the MiFID client classification. One has to keep in mind that the KID will be published on producers' websites, making it accessible to qualified investors as well as retail consumers.



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

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?**

For reasons of comparability for investors, level playing field for the industry and enhancing cross border distribution, we think a relatively rule based approach is necessary. The proposed two sheet maximum, combined with a comply or explain approach if a fund can't make a KID seems reasonable. In order to be able to produce these two pages, while the text is still readable at the same time, CESR should carefully (re)consider the items that have to be put in the KID. Currently we see several items listed in the proposals that in our view are of little interest to the investor in the pre-contractual phase.

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

We prefer option A. The current SP is already too long and hardly ever read by consumers. If we want a document that effectively distributes key messages on a product, we should limit ourselves to a much greater extent.

The information in the document should be focussed on product information and not contain distribution information. If the two are mixed the KID is more complicated and more expensive to make, because a new one has to be done for every distribution channel.

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

DUFAS is pleased that CESR is planning a consumer testing phase for the KID. It should in our opinion explicitly be tested which information in the document is considered useful and not useful by consumers (and whether they miss items which they consider essential to make an informed decision).

CESR has put forward proposals on the essential information that should be in the KID. It is questionable whether all these items are seen by the investors as essential in the pre-contractual phase. We have strong doubts whether the investor is interested in some of the proposed items in the KID and even whether those items are at all useful in a pre-contractual document. The name of the auditor is an example. We therefore suggest that CESR, keeping in mind that the KID is a pre-contractual document, again looks at the items to be included in the KID.

In consumer testing of one or more models of a KID, the following things should be tested:

- which information investors think is useful (and explicitly if there is any information they see as not being necessary, or information they miss).



- what is their recollection of the information provided, after having read the document (which can be an indication of what the investor really sees as being useful).

Qualitative testing is probably more useful than quantitative research. We advise CESR for the testing to use professional and experienced financial marketing research bureaus such as Millward Brown.

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

No, CESR has still proposed superfluous and/or irrelevant information. The *name of the auditor or depository* are details which are disclosed in the full prospectus which we regard as irrelevant for a *pre-contractual* document such as the KID. This information is of very little use to an investor when he is in the process of comparing different funds in which he might or might not invest. Moreover, the investor may rely that such items are properly taken care of by force of regulation. Information on *where to complain* is not suitable for the KID, because complaints generally arise after the investment is made, so disclosed in the full prospectus suffices. Furthermore, complaints are almost always related to distribution activities (advice, information provided by the distributor) and not to things the manufacturer of the fund is responsible for. Because the distributor is in most cases not the product provider, it should be deleted from the KID. The issue of consumer complaints is dealt with separately by MiFID.

The *practical information*, which may vary by member state and/or distribution channel³, should be kept to a minimum.

The general problem with *local information* is that it is a barrier for true cross border functioning of the passport, especially where it contains information of which it can be argued whether it is essential for the investor in the pre-contractual phase. DUFAS would prefer it to be kept out of the KID, in order to create a pan-European KID as much as possible. Local information can be provided by the local distributor.

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

Listing the competent authority could be useful in order to indicate that the fund is regulated and supervised. In a cross border context the question is which competent authority should be listed, the authority of the home state or of the host state. The home state authority monitors most of the activities of the fund but the host state authority has powers under MiFID with regard to the distribution (marketing) in a host country.

³ For instance the cut-off time for a fund subscription can be 4 pm, but depending on the procedures of the investment firm or bank where the investor is a client this can mean that he must send his subscription to investment firm A before 3.30 pm and to his bank before 3 pm.



The tax regime of the fund is far too complex an issue to be included in a KID. Understanding the information on tax treatment of the fund itself requires, in a cross border distribution situation, understanding of tax regimes of other countries. This is information that is already too complex most of the time for the retail investors of the country where the fund is domiciled. This kind of information is more suitable for comprehensive disclosure in the full prospectus.

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

DUFAS believes no additional items of information are necessary.

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

We agree with CESR (paragraph 4.24) that it is not easy to show the breakdown of fees shared between the distributor and the promoter and that KID should not do so. The amount varies for good reasons in different parts of the distribution network and cannot sensibly be disclosed by the product provider in a centrally-produced KID. We believe that (as under MiFID) it should be the responsibility of the party at the point of sale to disclose to the customer how much compensation for assessing the client profile or portfolio (suitability/appropriateness test) – or inducements, in MiFID terms -- will be paid initially and during the lifetime of the investment in respect of the specific purchase which the customer is contemplating.

14. Does the proposed approach to local information (a harmonized 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?

See also our answer to question 10.

We think a signposting to the prospectus, website or information point for a specific country should be sufficient. In this way only small adjustments are needed for the KID for every country, thus making it easier and cheaper to produce.

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

This is not necessary when the key investor information which the producer has to provide is in a separate document form that is provided by the distributor.

The proposed new notification procedure makes it inevitable in our view that the KII actually has to be a KID - Key Information Document. This is necessary to make the notification procedure as efficient and effective as possible. If the information is spread across various documents, the fund management company would have to include all of them in the notification file and guide the home state regulator through them (because



that authority has to check the completeness of the file). Other documents will be "pure" marketing material; mixing the two creates confusion.

Similarly, distribution costs should be disclosed at the point of sale, not by the manufacturer.

Moreover, producer and distributor disclosure in one document creates too much confusion at the point of sale on the question of who provided which information and might confuse liability issues.

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

DUFAS agrees with the proposed treatment of funds-of-funds.

**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?
and**

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 agree with the opinion of CESR that it is desirable to produce a KID for every sub fund of an umbrella fund. However an exception should be made for sub funds or share classes that are exclusively open to qualified investors, for which no KID should be obligatory.

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

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

DUFAS agrees with the proposals regarding investment strategies and objectives.

**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?
And**



- 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 misunderstandings ?**

With regard to the possible information on the minimum investment period we think this can cause discussions as decisions by producers may vary for comparable funds and therefore create an unlevel playing field. This kind of information should in our opinion only be obligatory if the product has special features which are linked to an investment period (e.g. a guarantee if you do not redeem within the first 3 years).

- 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?

The retail investor does not see the subtle difference between a legal guarantee and a non-legal guarantee. The word “guarantee” has different connotations in different languages, even after translation. In Dutch it is quite clear that a guarantee is not absolute, but only as solid as the person making the guarantee. DUFAS agrees that when a guarantee is made, the KID should mention who is guaranteeing, what is guaranteed and how the protection is achieved.

- 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?**

DUFAS believes such a statement is superfluous, because the UCITS product is aimed at retail investors. It also ignores the practical possibility that a fund designed and aimed at the retail investor may also be very attractive for non-retail investors, even if it is not specifically designed for them.

The Directive makes no distinction between UCITS for sophisticated and non-sophisticated investors. We therefore see no reason nor competence for CESR to introduce such a distinction.

Furthermore, messages like this interfere with the rules already in place resulting from MiFID on suitability/appropriateness and execution only sales of financial instruments such as UCITS. A certain UCITS fund in itself can be complex and relatively high risk, but can be perfectly suitable and/or appropriate as a (small) component part in a diversified portfolio of a relatively risk averse investor.



DUFAS agrees that it is not necessary to mention explicitly that a fund is not capital guaranteed.

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

Yes, we believe a synthetic indicator, such as is legally required in i.a. Austria, Belgium, Canada, Sweden and The Netherlands is a good way to briefly indicate the risk involved with a fund and therefore should be tested. It is a method already used on a voluntary basis by many asset managers worldwide, i.a. Black Rock/Meryll Lynch, Wells Fargo, Robeco, Pictet Funds. MorningStar also applies a rating system for funds, mainly based upon past performance and volatility. Many asset managers refer to their Morningstar star rating for retail marketing purposes. Nobody would argue that these asset management companies or Morningstar misguide their retail clients by not capturing or pointing out all kinds of risks that can occur, an argument often used by opposants of synthetic risk indicators.

DUFAS has observed an increasing tendency on the part of both different countries and various fund management companies, to introduce a synthetic risk indicator of varying appearance. DUFAS believes a harmonisation effort undertaken by the European authorities would not only benefit the consumer, but also pan-European fund managers by bringing more efficiency with a harmonised risk indicator across Europe and contribute to a level playing field within the European Union.

DUFAS believes a narrative indicator only would be impractical. Too many different phrasings (in each of the official EU languages!) can be drafted for a certain funds risk profile, not to mention the endless capabilities one has in a language to choose ambiguous or vague words, phrasing or grammar that can be interpreted in more than one way. Not to mention translation problems. All this is necessarily up to the producer of the product, thus making a level playing field next to impossible to achieve.

Most indicators in use give an indication of the volatility of past returns (standard deviation) or of the likelihood of achieving a positive (or a negative) return (VaR). Important risks such as liquidity risk, credit risk, sector or country risk may not have been fully reflected in the fund's history, depending on market phases. While it is true that no risk indicator can adequately express all risks related to a fund, this is equally true for a narrative. Let's not forget it is just an indicator. The difference is, that in case of a synthetic risk indicator, the calculation method can mitigate this disadvantage, if, for example, the volatility of the NAV is used to calculate the risk indicator. If an adequate time horizon is taken (say 10 years) risks other than market risk are largely taken into account as they have been incorporated in the prices of the assets and are therefore the NAV. By using of volatility of the NAV the magnitude of losses and profits are taken into account.

Simplifying and/or shortening a narrative, as its proponents propose, will compound the problem that not all risk can be adequately expressed in case of a narrative.



The beauty of a synthetic risk indicator is that it is concise and easier to understand for a consumer. While the mathematics behind a risk indicator may not be able to represent all the risks equally well, agreeing on a formula, containing the most important risks, will help achieve a level playing field.

A synthetic risk indicator is not vulnerable to beautification, like a narrative, where the risk exists that producers will choose words with the least possible negative connotations to describe a risk, thus devaluing the narrative risk indicator and turning it into a commercial sales pitch. DUFAS believes it is not desirable that producers can make a narrative risk indicator into a sales pitch.

Also – and this can be verified in consumer testing – a synthetic risk indicator is much more likely to be interpreted by the retail investor in the way that it is meant than any narrative risk indicator would be. This testing can be done by making a mock up of a risk indicator on a scale of (say) 1 to 5 and having the proponents of the narrative risk indicator propose five different texts for different risk categories. Then ask a focus group to put all of them in the correct order relative to each other.

Of course, many problems of narrative risk indicators can be mitigated (but not removed) by having the Directive prescribe standardised texts for say five or seven different risk categories, which will have to be put in place on the basis of a risk calculation. Those texts might then be condensed to words such as high, low, relatively high, etc.

DUFAS believes the best way forward is combining a synthetic risk indicator with a short narrative text, explaining the limits of the indicator ('by investing you may loose part or all of your money invested') and that the risk categorisation is not a prediction of the future.

26. What specific presentation (icon, wording, numeric scale...) should be favoured and on what basis?

A numeric scale would probably be best and it should be sufficiently wide to cover distinctions among funds. A scale that is too limited would concentrate too many funds in one risk category and therefore be less useful as a risk indicator for the public. A scale that is too broad would make it too difficult for the retail investor to distinguish meaningfully what is suitable for him. DUFAS believes that a scale from 1 to 7 would be best and a scale from 1 to 5 would be adequate.

In order to make an informed decision we suggest that CESR would test different options for display of a risk indicator, such as they appear in practice already.

Colour should in no case be used in the indicator, so as to allow the possibility to print the KII in black and white. Although the public might favour colour presentations, colour printings and advertisements are very expensive and fund management companies and/or their distributors should not be confronted with additional marketing costs as a result of the implementation of a risk indicator.



27. How prescriptive should regulators be on the choice of a methodology, given that it should take into account commonly shared risk management practices and suit investors' perception of risks?

The methodology should be clearly defined, for all types of funds and also for new funds. Should the chosen methodology not be applicable, an alternative should be prescribed or else it should be clearly stated that no risk indicator should be provided.

The methodology should be defined by the industry and endorsed by CESR. In practice, DUFAS would propose setting up a joint Working Group composed of regulators and industry representatives, where the methodology could be discussed and agreed upon.

It is essential, however, that the methodology chosen is binding for all regulators. Should a Level 3 CESR decision not ensure the necessary certainty of harmonized implementation, different measures should be considered.

Implementation costs could be reduced if, once the calculation method is decided, CESR provides a software tool with which the calculation and categorisation can be made with insertion of the necessary data by the fund producer. The Dutch supervisor AFM has very good experience with such software tool. By making use of the NAV as data for calculation and providing a software tool as mentioned, pan-European compliance with the rules is enhanced in a relative easy way.

28. Are you aware of any specific existing calculation methodology that should be proposed?

As a calculation methodology for a risk indicator, DUFAS suggests using the volatility of past returns, on the basis of the fund's NAV. The advantage of using such an ex-post approach is that NAV calculation is already standardized, and there would not be any need to agree on many parameters. Furthermore, this number is completely based on information already made public and can thus be verified externally. For new funds, the calculation could be based on the benchmark of the fund.

29. Is the suggested assessment grid at Annex 4 for methodological and presentation issues appropriate and sufficient for identifying a relevant methodology?

The suggested assessment criteria in Annex 5 (not Annex 4) seem sufficient.

With regard to the guidelines on the wording supplementing the indicator (see paragraph 6.28) we think the second part of guideline 5 should be deleted. This part, stating that the investor should monitor changes in the indicator and possibly adapt its investment strategy, is on one hand superfluous given the other guidelines and less useful in a pre-contractual document.

30. How could the potential limitations of the quantitative calculation of a synthetic risk/reward indicator be further mitigated?



As the KID is intended to be a short document and not intended to educate consumers, we think a reference should be made to the risk paragraph of the full prospectus where more (full) information on risks and the specific risk categorisation of the product can be given.

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?

We agree that possible limitations to the indicator might effectively be communicated by textual warnings. The same question arises with a pure narrative indicator. In both situations you have to make clear the limitations of the indication.

It is very important to educate the prospective investor as to the limitations of a synthetic risk indicator, so as to avoid excessive reliance on it.

CESR's current proposal of narrative accompanying the risk indicator in the "Risk and Reward Profile" section is flawed. It includes information that is not relevant (e.g. the description of risk in a category when the fund presented is in another category) while lacking a clear definition of the main fund risks and of the meaning of the risk indicator.

However, qualitative and quantitative information should be clearly distinguished. The calculation of the likelihood of a loss or gain and its' size (i.e. risk) leads to a figure, which should be incorporated in the synthetic risk indicator. Qualitative information in addition to that (Principle 3) is likely to lead to confusion in the mind of the consumer, inducing him to buy something he really shouldn't or not to buy something he really should buy.

Textual warnings are however useful, if they consist of phrases such as "For further information on the risks, please see the full prospectus." "Your investment may lose value." "You may lose part or all of your investment." as applicable. A phrase such as in the mock up that "Past returns are no guarantee for the future" is also useful.

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

The answer to this question depends on the methodology which will be chosen and the possible assumptions used in the subsequent categorisation. In general we can state that the longer the reference period for computing the risk indicator, the more different kind of risks may appear and be captured in the final outcome.

Funds with a guarantee of invested capital are for instance not well displayed in a model purely based on historic volatility. However a decision in such a model could be made that these kind of funds end up in the category displaying the lowest risk, but also include their (lower) net return scenarios in their KID, showing the costs of their safeguards.



Funds with a non-linear dependence on market prices (for example “formula funds” i.e. funds where the payout at a future date follows a fixed formula depending on market prices of the underlyings or funds with strongly non-linear strategies like for example discount strategies) may also not be captured by a standardized methodology, though possibly by individual quantitative measures.

A standardized approach is also unlikely to work for funds where the risk is variable like for example life cycle products and generally funds with a large possible variation of their risk level, possibly due to a change in strategy (as allowed by its prospectus).

These might include absolute return products of that characteristic. Absolute return products with a rather constant risk level, however, can also be treated using a standardized risk indicator, but this is not true for all such products, particularly when they may change strategy.

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?

For the types of funds mentioned in our answer to question 32, a standardized approach might be misleading and should not be used. Instead, these products should be labelled as carrying “non-standard” risk in a suitable way and different information should be given.

In the following we list conceivable options for those types of funds. In all those non-standard cases, we think that there should be a prominent, additional reference to further sources of information (prospectus, websites, etc.), since any KID with limited space most likely cannot convey all risk-relevant additional features comprehensively, but only describe the key features of a product.

- Formula funds: due to the large diversity and the deterministic nature of those products, we think that a brief description of the “formula mechanism” would be needed. Diagrams and description of possible different outcomes might be helpful for specific funds, but we doubt it would be possible to display them in a standardized KII format and within the space available. We would therefore suggest to refer investors to a website or a more detailed information source.
- Funds with strongly non-linear strategies: due to the large diversity of those products, we do not see a single quantity that characterizes the risk of all those funds equally well. Therefore we also recommend a brief narrative on the risk profile.
- Protection funds: a brief description of the current guarantee and the guarantee mechanism should be added prominently enough. For some protection funds (e.g. those with revolving guarantees or lock-in mechanisms), the standardized risk indicator might still be given in addition.



- Life cycle products: these funds do not necessarily have a particular, non-standard risk profile at a specific date, but their risk level typically varies over time and is strongly reduced towards the end of their individual horizon. Thus for those types of funds the investment horizon should be given, together with a comment stating that the risk level varies over time according to this horizon and potentially further information like e.g. a maximum equity allocation, if applicable.
- Funds with a large variation of their risk level: also for these funds, there is not a single measure characterizing their risk in general, so again a brief narrative should be added, mentioning in particular the criteria according to which the overall risk of the fund is set and – if applicable – giving an indication for the maximum possible risk.

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

We agree with the mentioned high level principles.

There is however an important point DUFAS wants to make regarding principle 3. A risk is a mathematical, quantitative notion, not a qualitative notion. Risk is the (mathematical) probability that an uncertain event will occur, multiplied by the maximum possible loss. In the event of a UCITS, the maximum possible loss is the total investment which the client is planning to make. The “size of the loss or gain” in real terms is related to the size of the investment. In the pre-contractual phase (for which the KID is meant), when a potential client is contemplating the investment of a certain amount of money, the risk indicator is necessarily more of a **probability** indicator than a risk indicator.

Principle 3 therefore makes a false distinction between the qualitative assessment mentioned there, and the synthetic risk indicator. If on the basis of a certain calculation method the probability of loss is deemed to be 1 – very low, 2 – low, 3-moderate, 4 – relatively high or 5-very high, then why pursue a distinction between a “narrative risk indicator” and a “synthetic risk indicator” at all?

The mentioning in a narrative risk indicator of only the main or material risks, with a brief description, would be meaningless and might be confusing for a consumer who is averse to currency risk and does not see it on another KID where the risk is less prominent but not absent.

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

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

We agree with the inclusion of past performance figures in the KID. This is one of the elements investors are very interested in. In order to streamline the requirements of MiFID and the UCITS directive we would prefer the display of a five year period.



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

We do not think that the performance data can sensibly show the effect of subscription and redemption charges as they can differ among distribution channels. The actual fee charged by the distributor is not determined by the fund producer. These costs should therefore not be included in the performance figures.

Distributors should be obliged separately to disclose the effect of their charges.

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

and

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

If "consolidated" charges means adding up charges by the fund and by its distributors, we have already stated in previous answers that we oppose that for reasons of principle but also for practical reasons. Often the distributor is independent from his suppliers (fund manufacturers) and requiring "consolidated" charges would result in having more than one KID for a single product.

If the question refers to the "illustration of the charges" in Option B (page 49-50 and 67-68), DUFAS has to say that we do not think that this form of disclosure is reasonable because it relies upon a scenario that contains subjective assumptions about the fund's and the investor's future circumstances. We also think that most investors would be unaware of the nature of the assumptions and their effect on the consolidated statement.

We prefer CESR's example Option A (page 48). We think that the KID should disclose the management fees, possible performance fees and (in a single total figure) other expenses. A 'Total Expense Ratio' (TER) gives more insight and a comparable instrument to the public than a breakdown of several specified costs.

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

and

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?

Due to the fact that different funds may have very different structures regarding charges it is not easy to define a standard table displaying charges. We think however that CESR's Option A (page 48) is a good initial design. We think that the section "on-



going charges" is sufficiently general for it to accommodate the disclosure of all other charges and the last section ("charges taken from the fund from time to time") would never be used.

We think that if a charge is not applied, as in CESR's example where the exit charge is "NIL", then the table should say so and the description should be omitted. "We take no other charges" is sufficient information.

Charges which may vary between different parts of the sales network should be mentioned as such, referring to the distributor for more information.

- 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?**

An ex-ante TER would be based on assumptions and is therefore difficult to verify and/or subjective. Therefore we oppose it. The advantage of an ex-post TER is not only that it is verifiable and not so subjective, but also that it is already required content of the Simplified Prospectus in many EU member states.

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

The KID should be updated if material changes occur that have a material effect on the data in the KID.

- 44. Should portfolio transaction 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?**

DUFAS believes portfolio transaction charges should only be mentioned as one of the funds' charges, but not be specified. We do not think that portfolio transaction charges should be specified as separate category of charges under the "ongoing charges" part of the table, as this is of little interest to the consumer on the one hand and an administrative burden for fund management companies on the other hand, further complicated by netting of securities transactions. MiFID best execution principles already protect the interests of investors in general.

Further we agree with CESR that these type of charges should not be included in a Portfolio Turnover Rate (PTR). The PTR is included in the current Simplified Prospectus, but retail investors have difficulty understanding its meaning.



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

We agree with CESR's opinion that the KID is unlikely to offer adequate space to describe fully some performance fee structures and we think that it is best to refer investors to the full prospectus or to their distributor. Since the performance fee can be summarised on an ex-ante basis, we would prefer it to be disclosed as such.

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

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

Disclosure of costs regarding distribution (regulated by MiFID) should be done by the distributor in an appropriate manner. The KID should only refer to these possible costs briefly, and should state that more information can be obtained from the distributor.

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?

Yes.

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

We welcome the commitment of CESR and the Commission to test the ideas on the KID with consumers. We hope that CESR will recommend to the Commission that the broadest possible range of prototype KID be submitted to consumer testing in the following stages that can be identified:

- (i) preliminary stage, in which prototype components (e.g., various forms of performance charts, risk indicators and narratives, charge tables, key agents, etc) are tested individually and in combination.
- (ii) confirmatory stage, in which the best prototype from the developmental stage is confirmed as the preferred design.

It is obvious that consumer testing should be planned and conducted by an appropriately specialised financial marketing research firm. Test should also be conducted with consumers in different member states of the European Union.

50. Do respondents have any initial views on the one-off costs of replacing the SP with KII?

Initial costs will depend on (1) the content, and how much it differs from the content currently required for the Simplified Prospectus, (2) whether the KID has to include



distributor information as well as fund information, (3) whether making the document available on a website is sufficient or whether it has to be (physically) delivered to investors in advance of an actual sale (the latter which we think is not feasible since more and more fund investors use the internet or telephone for their fund subscriptions: therefore offering of the KID as a standard practise via the website of the distributor or the fund manager should be sufficient).

51. Do respondents have any initial views on the on-going costs of KII, compared with those currently included in producing the SP?

If and when the KID turns out to contain fewer detailed pieces of information than the Simplified Prospectus currently does, and if variations on the national level are limited, and variations by distribution channel excluded, the KID is likely to be cheaper to maintain than the Simplified Prospectus.

52. What, if any, transitional arrangements should there be if the SP is replaced with KII?

In order to maintain a level playing field the transitional arrangements should be adequately fixed in a regulation (not a directive) of the European Community. Depending on the (changes in) requirements, a transitional period of at least 12 months is necessary.

Transitional arrangements should take into consideration the fact that the KID will contain data based on calendar years, such as performance data.

53. Is the gradual introduction of KII feasible?

Yes, no big bang is needed, especially not if the KID of a fund manufacturer does not contain distributor information. If a company is able to produce a KID before the legal deadline, there is no objection at all that he replaces his Simplified Prospectus with the KID. In any transitional period there will be comparability issues. The SP is not comparable to the KID, and that is equally true in a gradual introduction scenario and in a big bang.

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