



SEGRETERIA NAZIONALE

CGIL is the oldest Italian trade union and it is also the most representative of Italian workers, with about 6 millions of members, including workers, pensioners and young people. CGIL is a member of the European Confederation of trade unions (Ces) and of the International Confederation of trade unions (Ituc-Csi).

This document aims at expressing CGIL remarks about the Consultation paper n. 09-522 titled “CESR’s technical advice at level 2 on the format and content of Key Information Document disclosures for UCITS”, issued by the CESR on July 2009. The document should be read jointly with CGIL comments on the CESR’s Consultation paper n. 09-716 titled: “Addendum to CESR’s consultation paper on the format and content of Key Information Document disclosures for UCITS”, published on August 4th 2009.

First of all, CGIL wants to express its appreciation for the EU law-maker choice in the direction of an easier information to be provided to investors, relying on a few but quite meaningful key points which describe the financial features of the products to be offered. In fact, such approach is fundamental to allow potential UCITSs’ subscribers to take informed investment decisions, given the wide range of financial investment alternatives available on the markets.

In this regard, the most important point in the consultation document is certainly the initiative to realize the disclosure on the risk-return profile of UCITSs by means of synthetic risk indicators, based on robust and objective quantitative metrics.

Current regulation mainly relies on the narrative description of each risk driver affecting the investment in an open-end mutual fund, and such option is still present in the last Consultation paper. However, the narrative approach seems unsuitable to achieve an effective risk disclosure. In fact, it is traditionally conceived as a minute list of all risk sources which could potentially affect the results of the financial investment. As a consequence, it fails to achieve the task of focusing investors’ attention on the significant risks of the UCITS, which instead should be represented through a simple and immediate message such as that one offered by quantitative-backed synthetic risk-reward indicators able to reflect an objective measurement and monitoring of the overall riskiness of a UCITS.

A second remark concerns the choice of using a single SRRI. Indeed, even if such indicator - being volatility-based (as clarified in the Addendum of August 2009) - allows for a consistent risk classification of UCITSs, such information should be supplemented by that one about the fund’s recommended time horizon and potential returns, as only the joint presence, in the KID, of all these indicators would ensure a clear and exhaustive representation of the risk-reward profile of the product.

In other words, even if synthetic risk indicators based on objective and robust quantitative metrics are considered, the Consultation paper still seems to miss a representation of the fund’s risk profile defined in accordance with an integrated methodological approach. The approach proposed in the paper seems rather an unsuccessful attempt to find a compromise between legal formalism and quantitative measures.

Given the heterogeneity of views and the multitude of alternative options which are still present in the Consultation paper (after more than 2 years of work the choice for the risk representation is still between a “*narrative*” and a “*quantitative*” approach), CGIL believes that the only feasible and appropriate solution could be that one of abandoning the attempt to find a compromise “inside the KID”: the KID should instead contain some general disclosure principles - which have the full agreement of all participants to the working group - and, given such a common premise, the detailed definition of further prospectus contents should be granted to the competent surveillance Authorities of any member State for all UCITSs offered in that State. To sum up, once that the respect of the general KID principles is ensured, any jurisdiction should freely identify the complementary information items it deems the most suitable for the prospectuses of UCITSs marketed in its own country, in the light of the specific surveillance approach adopted in that country.

The above remarks will be better detailed in the following answers to some questions contained in the Consultation paper.

Questions for the CESR consultation

Do you agree with the proposals in Box 4?

In particular, do you agree that the information shown is comprehensive and provides enough detail to ensure comparability between KIDs?

Are there any other matters that should be addressed at Level 2?

No.

First of all, the items proposed to be inserted in the section headed “Objectives and investment policy” are too much and many of them are useless to the effective investors’ comprehension of the investment policy: the excess of information (which is the main drawback of the Simplified Prospectus) could have the effect of disorienting investors.

CGIL agrees with the proposed suggestion to supplement the synthetic risk-reward indicator through the indication of a minimum investment holding period (so-called recommended investment time horizon). However, the Consultation paper does not recognise this key information item as a mandatory one and it does not provide any guideline to ease the comprehension of the relationship existing among risk, potential returns and recommended investment time horizon. At the same time it does not contain any methodological indication concerning the technical determination of the latter, leaving it to the arbitrary methods developed by each asset management company.

Questions for the CESR consultation

What are your views on the advantages and disadvantages of each option described above?

Do you agree that Option B (a synthetic risk and reward indicator accompanied by a narrative) should be recommended in CESR’s final advice? Respondents are invited to take due account of the methodology set out in Annex 1, as supplemented by the addendum to be published by the end of July, when considering their view on this question.

No.

CGIL agrees with Option B, that is with the use of a synthetic volatility-based indicator (to be defined according an objective quantitative methodology) to represent the risk-reward profile of UCITSs. The issues still open about the best methodological solution (see the different options proposed in the Addendum published by the CESR on August 4th 2009) can be easily overcome; in particular, Option A of the Addendum appears the right way in such a direction.

On the contrary the narrative approach outlined in Option A of this Consultation paper has too many drawbacks which cannot be amended:

- excessively long, heterogeneous and incomparable descriptions among different UCITSs/asset management companies;
- lack of focus on the key information on the overall riskiness of the fund;
- potential opportunistic conducts of the management companies.

Questions for the CESR consultation

Do you agree with the proposals for presentation of risk and reward in Box 5A?

Are there any other issues that CESR should consider if it decides to recommend this approach to the disclosure of risk and reward?

No.

See previous answer.

Questions for the CESR consultation

Do you agree with the proposals for presentation of risk and reward in Box 5B? In particular, is the proposed methodology in Annex 1 capable of delivering the envisaged benefits of a synthetic indicator?

Does the methodology proposed by CESR work for all funds? If not, please provide concrete examples.

Respondents are invited to take account of the methodology set out in Annex 1, as supplemented by the addendum to be published by the end of July, when considering their view on the questions above.

Are there any other issues that CESR should consider if it decides to recommend this approach to the disclosure of risk and reward?

The classification of funds given in the Consultation paper is not in line with the reality of the market. Indeed, Italian retail investors are used to distinguish investment products according to three main macro-structures: *risk target products* (meant as those funds which are committed to a specific target in terms of minimum and maximum risk exposure); *benchmark products* (meant as those funds which take a market benchmark as reference point of their investment policy, and can have either a passive or an active asset management style); *return target products* (meant as those funds which pursue a minimum given return over a preset time horizon).

In this perspective, the funds' classification proposed in section 3.2. of the Addendum should be preferred to that one contained in this Consultation paper.

CGIL agrees with the use of the volatility of UCITS's returns as driver to identify its level of riskiness, but it disagrees with the choice of violating the classification based on volatility by inserting some further solutions in order to solve the problem of the representation of the risk-reward profile for funds featuring a complex financial engineering. In fact, this choice makes harder the comprehension of the synthetic risk-reward indicator and it could generate doubts in the interpretation of the KID information by investors. In this regard, it is also worth noticing that CGIL does not share the choice of representing the SRRI through a numerical scale instead than through a qualitative one, which is certainly more understandable to the average investor.

As far as the methodological issues on the SRRI are concerned, CGIL strongly prefers the risk classification according to the volatility intervals presented in Option A of the Addendum, as they come out from a calibration based on a stochastic optimisation algorithm which moves

from standard and objective assumptions (such as the risk-neutrality principle). The six volatility buckets of Option A can be easily used as reference point to determine the riskiness of the UCITS and to correctly analyse its random evolution over time so that the KID could be promptly updated any time a significant change occurs in the risk profile of the fund.

More specifically, a migration in the risk level of the fund should be detected any time its NAV volatility moves away from its original bucket for a period sufficiently long. To this end - as written in the migration rule n. 2 of the Addendum - an observation period of three months should be considered, also because, by construction, it is the only one consistent with the results of the calibration procedure used to find the volatility intervals.

A last remark about the SRRI and the underlying quantitative methodology concerns the opportunity to supplement the qualitative information given by the risk category of the fund with a synthetic breakdown of the potential returns of the financial investment at the end of the holding period recommended to investors. This could be achieved by requiring as mandatory information item a table showing the probability of the fund to perform more or less well, both with respect to the initial amount invested in it (i.e. capability to repay at least the costs charged to investors) and with respect to the simple, alternative investment in the risk free asset over the same time period. Such a table could be particularly useful to the actual comprehension of the fund's risk profile if, for each macro-event considered, it would show both the associated probability (calculated under the risk-neutral measure) and a value representative of the performance obtained by the fund in that macro-event.

Questions for the CESR consultation

Do you agree with the proposals in Box 6?

In particular, do you agree the table showing charges figures should be in a prescribed format?

Do you agree with the methodology for calculating the ongoing charges figure?

No.

The proposal of Box 6 has two main drawbacks:

1. it does not consider all the cost items charged to investors;
2. it is based on past costs and, hence, it could be easily misunderstood by investors. In particular, this second point cannot be overcome simply adding a disclaimer as the information provided to investors would anyway remain essentially backward-looking.

A valid alternative could be the adoption of a table which offers a breakdown of the costs applied to the financial investment together with some suitable items aimed at illustrating the amount actually invested in the UCITS. To preserve the coherence with the probability table suggested in the previous answer, the entries of the costs' table should be computed by discounting back at the subscription time all the potential final payoffs of the fund and then by taking their average.

Questions for the CESR consultation

Do you agree with the proposals in Box 7?

In particular, do you agree that CESR should not prescribe a specific growth rate in the methodology for calculating the illustration of the charges?

No.

The proposal summarised in Box 7 has the disadvantage of offering an information anchored to a deterministic and completely arbitrary assumption on the growth rate of the fund, which would jeopardize the fundamental principle of a levelled playing field between the various UCITS and, at the same time, could be misleading for investors, eventually feeding specific expectations in terms of minimum returns. Moreover, such assumption would require to be updated over time due to the need of making sense with respect to the current market conditions.

Questions for the CESR Consultation

Do you agree with the above CESR proposals on performance scenarios?

In particular which option (A or B) should be recommended? If not, please suggest alternatives

CGIL agrees with CESR's Option B.

Option A concerning the prospective scenarios (so-called “what-if” approach) does not constitute an objective solution to the representation of potential fund's returns. This is because the “what-if” approach requires the illustration of few, quite specific examples associated with arbitrary market trends, without an explicit indication of the different probabilities of each prospective scenario, and, as a consequence, the resulting information would be misleading to the investor, who would likely assign the same probability of occurrence to each scenario.

The solution given by the performance scenarios (Option B of the Consultation paper), to be included as a specific probability table in the KID (as already suggested in the answer about the SRRI) seems the most suitable to convey the significant information on the UCITS's potential return. Moreover, the principles defined in the Consultation paper allow to apply this methodology not only to the funds whose historical time series is not long enough or which can not be explained by using a proxy, but also to all the other funds' types. In other words, such representation should not be limited just to structured funds, and, instead, it will be better to consider the opportunity of extending the probability table to any type of fund. In this way, also problem of representing the risk profile of funds featuring quite complex financial engineering could find an immediate solution.

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Nicoletta Rocchi

Politiche Internazionali e della Cooperazione

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