

25 February 2011

European Securities and Markets Authority (ESMA)
11-13 avenue de Friedland
F-75008
Paris
France

Dear Sir/Madam

**Request for technical advice on possible delegated acts concerning the
Prospectus Directive (2003/71/EC) as amended by the Directive 2010/73/EU**

The IMA represents the asset management industry operating in the UK. Our Members include independent fund managers, the investment arms of retail banks, life insurers and investment banks, and the managers of occupational pension schemes. They are responsible for the management of around €4 trillion of assets, which are invested on behalf of clients globally. These include authorised investment funds, institutional funds (e.g. pensions and life funds), private client accounts and a wide range of pooled investment vehicles. In particular, our Members represent 99% of funds under management in UK-authorised investment funds, including both UCITS and non-UCITS retail funds.

Our members have an interest in this request for advice from two perspectives:

1. As managers of retail investment funds they are concerned that there should be consistency in the regulation of the disclosures of, and the selling practices for, all competing retail investment products in Europe. In this context we comment on Section 3.2 - *Format of the summary of the prospectus and detailed content and specific form to be included in the summary (Article 5(5))*.
2. As investment managers buying securities on behalf of their clients.

1. "Packaged" Retail Investment Products

Across the EU, consumers are being required to take more control of their long-term savings and investment arrangements. There is evidence that consumers are not best equipped to do this and action should be taken to meet this need. In particular, the Commission has identified an asymmetry of information between consumers and manufacturers/sellers of investment products as a market failing.

65 Kingsway London WC2B 6TD
Tel: +44(0)20 7831 0898 Fax: +44(0)20 7831 9975

www.investmentuk.org

In its request to ESMA the Commission identifies that the summary document should contain key information as an essential part of improving the effectiveness of disclosures to increase consumer confidence in the financial markets and to enable consumers to make fair comparisons among summaries of similar products. We endorse this view and join the Commission in drawing ESMA's attention to the work currently being undertaken under the Packaged Retail Investment Products (PRIPs) initiative.

It is most important that a level playing field exists between broadly substitutable products that have the same economic effect. Consumers generally invest in these products in the hope, if not the expectation, that their investment will result in an increased return at some point in the future. They should be able to compare the relative risks in making such a decision. Disclosure at point of sale plays an important part in making the investment decision.

We believe that there are certain common key elements in any investment product that a consumer should understand before they make an investment decision. These key elements include risk, reward and costs. It is these elements that should be required to feature in a prominent way in any disclosure document.

Following the UCITS IV Directive, fund managers throughout Europe are developing Key Investor Information Documents (KIID), the contents of which are prescribed, specifically to enable consumers to make such a comparison between competing UCITS funds. The KIID has been identified as the benchmark for developing similar disclosure requirements under the PRIPs initiative and it is essential for consumers that the Prospectus summary document is harmonised with that initiative.

Previous proposals from the Commission, whilst recommending that the summary contain "key information", removed the maximum length of the summary and did not define what the key information should be. This lack of definition would have led to inconsistencies in the information provided and would have been impossible to monitor for quality and effectiveness – as well as being of no use to the consumer for comparison purposes. We are particularly concerned therefore that ESMA's advice in relation to the Prospectus Directive should be fully aligned with the PRIPs initiative.

We call upon ESMA to consider the impact of good, clear disclosure of information on any consumer's ability to make informed investment decisions and to advise that the requirements of the Prospectus summary document be harmonised with that of the UCITS KIID and the PRIPs initiative.

2. The Fixed Income Market

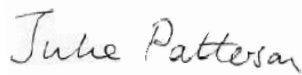
Even for wholesale consumers we think there is a need to improve the transparency of terms as well as clear labelling of seniority status. This will not only help avoid confusion and damage to the issuer's reputation, but will protect investors from abuses. Once bonds are labelled "senior unsecured", investors are entitled to expect that this status will not change. Claims of "senior unsecured" status without appropriate covenants provide limited protection.

We think, as well, that other forms of improved disclosure would be helpful, and reflect reasonable expectations, although we acknowledge that this may be hard to achieve given the trend to a short summary document. This could include:

- Availability of prospectuses of all bonds in issuance, including private placements, on issuer website
- Availability of roadshow material for bonds in issuance
- Specific disclosure of covenants in all bonds in issuance, including private placements
- Disclosure of covenants contained in loan documentation
- Disclosure of cross default and rating triggers
- Disclosure of all material guarantees issued and dividend and profit sharing agreements if relevant
- Exact description of the issue in relation to the overall capital and corporate structure of the issuer
- Disclosure of an Investor Relations contact, Treasurer, CFO data (name, address, phone, fax, email), and website of issuer
- Planned and maximum amount of funds to be raised by the intended issue as well as clear description of use of proceeds
- Provision of a lock-up period (eg no new issuance within two weeks before or two days after regular capital market information dates – that is, quarterly or annual reports)
- Provision that there is no difference in covenants used in case of simultaneous issues in different currencies or different MTN tranches (accompanied by legal opinion or auditor statement)

We would welcome the opportunity to discuss the above points with ESMA.

Yours faithfully

A handwritten signature in cursive script that reads "Julie Patterson". The ink is dark and the signature is written on a light-colored background.

Julie Patterson
Director