



THE COMMITTEE OF EUROPEAN SECURITIES REGULATORS

Ref: CESR/08-035

**CESR's consultation on the content and form of
Key Information Document disclosures for UCITS**

Feedback Statement

February 2008



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INTRODUCTION

Background

1. The UCITS Management Directive (2001/107/EC), which was formally adopted in 2002, introduced the concept of a simplified prospectus (SP). This is a document, prepared by the UCITS provider and aimed at prospective investors, which presents the principal features of the fund, such as its investment aims, charging structure and risks. It is meant to be in a readily understandable format, so that it can be used prior to any sale to make comparisons between UCITS funds, whether the investor is using an adviser or acting on an execution-only basis.
2. Although the SP came into full use only in late 2005, it has become clear that it is not achieving its purpose. Member States (MS) have not been consistent in making rules about its use (a Commission recommendation on the detailed contents of the SP was published in 2004¹ but not all MS have incorporated it into their rules or adopted it in the same way, and some have introduced additional requirements). The result is that the SP is largely ineffective as a tool for comparing funds based in different jurisdictions. In addition, the tendency of UCITS providers to include too much detail in the document, often in legalistic language, makes many SPs too long and complex for the majority of retail investors to understand or readily engage with.
3. The Commission recognised these concerns in its White Paper on Enhancing the Single Market Framework for Investment Funds² and is seeking to address them as part of a series of targeted enhancements to the UCITS Directive announced in March 2007.
4. The Commission's proposal is to scrap the existing legislative material on the SP and replace it with the concept of KII. This is intended to be a concise and focused presentation of the information of which it is important for a prospective investor in a UCITS fund to be aware, covering largely the same general areas as the SP. The KII will also include essential practical information such as how units may be bought and sold. The UCITS provider would be required to translate the KII (though not the full prospectus) into an accepted language of each MS in which it is to be marketed.

Summary of CESR work

5. In March 2007 the European Commission requested assistance from CESR with its work on upgrading the disclosures provided by UCITS providers to help informed decision-making by potential retail investors. The Commission will not issue a formal mandate to CESR to provide advice on the Level 2 Directive until its work on revisions to the Level 1 Directive is complete. However, it considered it desirable for technical groundwork on the detailed provisions to begin straightaway, so that the critical issues can be considered at the same time as work is progressing on Level 1. In the light of the Commission's request, a sub-group of the Investment Management Expert Group (IMEG) was formed to consider the detail of KII and to develop a recommendation to IMEG on CESR's response to the Commission. This sub-group is jointly chaired by the UK FSA and the French AMF and includes representatives of eight other MS.
6. CESR published a consultation paper (CP) on 16 October 2007 (Ref: CESR/07-669) on content and form of Key Investor Information Disclosures for UCITS.³ The consultation closed on 17 December

¹ Commission Recommendation 2004/384/EC of 27 April 2004

² <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2006:0686:FIN:EN:PDF>

³ The development of this Consultation Paper followed views gained from the public Call for evidence on UCITS distribution (Ref. CESR/07-205); a further Call for evidence on Key investor disclosures for UCITS



2007. CESR received 51 submissions, which can be viewed on the CESR website. Approximately two-thirds of respondents were individual firms or industry representatives, mainly from the asset management and banking sectors. Approximately a quarter of responses came from retail investors' representatives. A full list of respondents and their respective areas of activity is included at Annex 1 of this Feedback Statement. An Open Hearing was held at the CESR premises on 23 November 2007 at which attendees debated a wide range of issues covered in the CP.

7. In developing its proposals, CESR has paid close attention to all the available evidence relating to the failure of the simplified prospectus and, in line with the 3L3 Impact Assessment Guidelines developed jointly by CESR, CEBS and CEIOPS, has placed strong emphasis on systematically analysing the pros and cons of the options it has considered. The proposals on the joint impact assessment guidelines were published for consultation in May 2007 (Ref. CESR/07-089).
8. CESR's advice is being submitted to the Commission with a view to the consumer testing exercise that will follow. It therefore represents an interim step in the process leading towards finalisation of CESR's recommendations and, as a result, it has not been possible to carry out a full analysis of the costs and benefits at this stage.
9. The purpose of this document is to provide a summary of the main comments received by CESR along with an explanation of CESR's preferred approach on some of the most significant issues raised. Feedback is set out in the same order as the questions in the CP; where issues overlap, feedback is given on more than one question within the same section.

Overview of main issues

10. There was widespread agreement from market participants that the SP had been a failure and that the proposals for KII were a good basis for making progress. There was also broad support for a relatively prescriptive approach to be taken and, in particular, to limit the length to two sides of an A4 document.
 - **Wider context in which KII will be used:** Respondents' views were mixed on whether KII should be required for wrappers which incorporate UCITS.
 - **Other Directives:** There was substantial support for the idea that the delivery of KII should fulfil a firm's obligations under MiFID.
 - **Format and content:** A large majority of respondents favoured limiting the length of the KID to two sides of A4.
 - **Strategy and objectives:** The vast majority of respondents supported CESR's proposals to merge information on strategy and objectives into a single section.
 - **Risk/reward disclosure:** Respondents' views were very mixed on the different options proposed for improving risk/reward disclosure. A majority of industry stakeholders favoured improved narrative disclosure, while investors' representatives generally supported a synthetic risk/reward indicator.

(Ref. CESR/07-241); and a Questionnaire on simplified prospectus for retail investors (Ref. CESR/07-214). A full list of respondents to these consultations is included at Annex 1.



- **Past performance:** Most respondents felt CESR's proposals on past performance information represented a sensible approach. The majority of comments focused on the question of whether to include a benchmark, and the period which past performance information should cover.
- **Charges:** The majority of respondents favoured an improved version of the current approach to charges disclosure, rather than the addition of a summary measure. There was, however, some support among investors' representatives for the addition of a single 'summary' figure.
- **Assessing costs and testing benefits of KII:** Mixed views were expressed on the potential costs of the new regime. Most stakeholders agreed that it was difficult to give a precise estimate of costs until more concrete options had been set out. A number of suggestions were made on how to carry out consumer testing, and there was support for further consultation of stakeholders before the finalisation of CESR's advice.



OVERVIEW AND SCOPE OF KII WORK

1. CESR's work key investor information (KII) is split into three phases:
 - Phase 1** CESR prepares and deliver its advice to the Commission following public consultation (April 2007 to February 2008).
 - Phase 2** The Commission carries out market testing throughout 2008 on the basis of the CESR submission.
 - Phase 3** CESR finalises its advice taking into account the results of the testing exercise and further consultation with market participants (by March 2009).
2. This Feedback Statement is being published alongside the advice to the Commission, thereby marking the completion of Phase 1. During Phase 2, CESR will carry out further work on technical aspects arising from KII, covering three main areas: risk/reward disclosure, past performance and charges. Many of the comments made by respondents to the consultation related to issues that will be covered in that technical work; as a result, this document does not give feedback on those comments. CESR intends to carry out further consultation of market participants before finalising its advice in 2009.
3. It should also be noted that the advice CESR is delivering to the Commission now is for a set of measures that will be subject to consumer testing. As such, CESR has been able to propose that a number of different options be tested in each area of the KII. Inevitably, this has resulted in the position being left open on a number of questions. Definitive conclusions will not be reached until Phase 3 of the process, in the light of results from testing, the further technical work and additional input from stakeholders.

FEEDBACK ON CESR'S CONSULTATION PAPER ON KII

General comments

4. Respondents made a number of general comments about the KII proposals and related issues. These are set out below, followed by our feedback.
5. Several respondents called for the KII to be renamed the 'key information document' or 'KID', in order to emphasise that the outcome would be a single document with a harmonised structure and content.
6. CESR agrees with this suggestion and has decided to adopt the term 'key information document' or 'KID' to refer to the disclosure document.⁴ This is consistent with the lack of support among respondents for the so-called 'building block' approach.
7. A significant proportion of industry stakeholders felt that the KID should be a harmonised document that would be the same across every EU Member State (except for language requirements), with no possibility for the competent authority (CA) of the host Member State (MS) to impose additional requirements. On a similar point, several stakeholders sought clarity on the exact status of the document e.g. marketing document, subset of the full prospectus, sui generis.
8. CESR supports the notion that the KID should be a harmonised document which, once approved by the CA of the home MS, should not be subject to any additional requirements other than on translation. However, the level of harmonisation of the document and the allocation of responsibility between home and host CAs is a matter for the Level 1 legislation. The same applies to the legal status of the KID.
9. The point was raised by several industry representatives that the fund provider should not be held responsible for the actual delivery of the KID to the investor i.e. it should be sufficient to offer the document. Some retail stakeholders, on the other hand, argued that the provider should 'actively' provide KII, not just make it available.
10. The draft changes to the Level 1 UCITS Directive indicate that the management company must provide a KID to investors it deals with directly. CESR has so far understood this to mean that there is an obligation to deliver the KID to the investor, not merely to offer him the choice of whether to receive it.
11. Several respondents commented on the liability status of the KID. Some felt the proposed exclusion did not go wide enough and made suggestions for an alternative formulation e.g. based on negligence or bad faith, or limiting liability to information not further detailed in the full prospectus.

⁴ In this Feedback Statement, the term 'KID' is used when referring to the actual disclosure document; the term KII (key investor information) is also used to refer to the overall project to develop improved investor disclosures.



12. CESR agrees that there should be clarity on the liability status of the KID. The Commission is considering this issue as part of its work on the Level 1 text.
13. There were a number of comments on the obligation to update the KID. Several industry and investor stakeholders were in favour of a requirement to update the KID on an annual basis, or as soon as there are any material changes to the content.
14. Having taken respondents' views into account, CESR recommends imposing a requirement that the KID be updated on an annual basis and as soon as there are material changes to the content. It should be stressed, however, that the requirement would not extend to provision of the updated KID to existing investors.

Summary analysis of SP regulatory failure

Questions

1. Are respondents aware of other research which is relevant to the market and regulatory failures associated with the SP?
2. Do respondents consider CESR's proposals would address the regulatory failures associated with the SP?

15. Two other pieces of research were mentioned by respondents: the AMF Delmas-Marsalet report⁵ and the Analysis of the Simplified Prospectus by the Austrian Association of Consumer Information.⁶
16. The majority of respondents felt that CESR's proposals were a good step towards addressing the regulatory failures associated with the SP. However, many qualified their remarks in relation to particular aspects of the proposals; feedback is given on these at the appropriate section below.

The wider context in which KII would be used

Questions

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?

17. A number of respondents (particularly on the retail side) picked up on the statement in the CP that, under the current legislative arrangements, there would be no guarantee that retail investors would receive the KII in the standardised form envisaged by CESR. The representatives were anxious that steps be taken to ensure the delivery of KII to all retail investors, whether under MiFID or the UCITS Directive.
18. CESR has already stated that it supports the delivery of the KID to all investors who do not hold units in a wrapper.

⁵ http://www.amf-france.org/documents/general/6383_1.pdf

⁶ <http://www.konsument.at/konsument/>

19. Respondents expressed mixed views on whether a KID should be delivered for wrapped products. Two retail representatives felt the KID should always be delivered for wrappers; one asset management association felt it may be appropriate provided the essential fund features had not changed; while several other industry stakeholders felt the KIDs for the UCITS and the wrapper should be kept separate.
20. CESR notes that in most cases, the provider of the wrapper will be responsible for the information about it, but in some cases – where the wrapper does not alter the essential features of the UCITS – further work could be done to decide whether the KID might still be used.
21. There was substantial support among respondents for the idea that delivery of the KID should fulfil a firm’s obligations under MiFID (i.e. that Article 34(1) of the MiFID Level 2 Directive should be amended to cover the KID). One respondent felt that the proposals on KII represented goldplating of MiFID, and that the final KII regime would effectively become guidance for MiFID firms on information requirements for non-MiFID products.
22. As noted above, CESR supports the delivery of the KID to all investors who do not hold units in a wrapper. However, it would be for the Commission to decide whether to revisit the content of the MiFID Level 2 Directive in light of the final provisions on KII. In developing its proposals on KII, CESR has focused its attention on disclosures for UCITS funds only. However, it recognises that the proposals may prove useful in considering disclosure requirements for related products.

General options for format and content of KII

Questions

- | |
|--|
| <ol style="list-style-type: none">4. Do respondents agree with the proposed purpose and scope of KII?5. Should non-retail investors be permitted to opt out of receiving KII?6. Do you think that CESR’s proposals on general presentation are appropriate?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? |
|--|

23. Respondents generally welcomed CESR’s proposals on the purpose and scope of the KID.
24. There was a broad consensus that the length of the KID should be limited to two sides of A4. Some respondents asked that an exception be made for more complex funds. One respondent suggested that a 2-page limit could lead to the use of small print.
25. CESR confirms its support for limiting the KID to two sides of A4. The characters used for each item should be of a readable size.
26. A significant majority of respondents supported flexibility on the provision of the KID to non-retail investors. A number of industry stakeholders suggested that for funds aimed at non-



retail investors only, providers should not even have to produce a KID; most, however, would be content with an opt-out to deliver the KII in such cases.

27. CESR is of the view that a KID should be produced for every UCITS, even those not marketed at retail investors, and delivered to all investors in those funds. However, CESR supports examining the possibility of allowing non-retail investors (who may be defined as those falling within the MiFID definitions of ‘professional client’ or ‘eligible counterparty’) to opt out of receiving a KID if they deem it not relevant to their needs, so as to reduce unnecessary costs. MiFID-regulated distributors are already permitted to tailor the disclosures they make according to the classification of the investor, though the UCITS Directive currently makes no distinction between different types of investor. CESR is aware that there a number of Directive constraints, however, which may require further analysis
28. Most respondents favoured prescription on the format and content rather than a principles-based approach. Many industry representatives felt this would make the cross-border notification process run more smoothly and reduce the scope for host Member States to impose additional requirements. There was broad support for the KID to be written in plain language, but no support for the building block approach.
29. CESR confirms the approach set out in the CP, namely a relatively prescriptive set of requirements on the content and format of the KID. However, this does not extend at this stage to defining very precisely a template to be applied, such as specifying the amount of space to be devoted to each item or prescribing specific wording for the description of fund features.

Question

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

30. A significant majority of respondents supported Option A as set out in the CP (the shorter list of items). However, most respondents qualified this support by recommending the addition or removal of one or more items. Retail representatives were mostly in favour of including information on how to make a complaint.
31. CESR considers there is definite scope to reduce the content of the KID compared to what currently appears in the SP, and that there is potential benefit in dropping some of the less relevant information. This requires finding an adequate compromise between the need to limit the number of items to be communicated, in order to ensure key messages are received, and ensuring investors receive enough information in order to make their decision and act on it, while satisfying legal requirements.
32. Having carefully assessed the pros and cons of keeping each item currently required by the Commission Recommendation, and having considered items mentioned in disclosure documents produced in non-EU jurisdictions, CESR recommends testing with consumers two broad options for the amount of information contained in the KID (while expressing a preference for Option A). CESR has taken account of respondents’ views in developing the list of additional items to be tested under Option B.



Question

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

33. Respondents made a range of comments on how the KII proposals should be tested with consumers. These comments, and our feedback, are covered under question 49 below.

Question

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

34. As noted above, the majority of respondents were broadly supportive of the balance CESR had struck in this context. However, many suggestions were made on items that should be added or removed from the preferred list. CESR is hopeful that the consumer testing exercise will demonstrate which items of information are genuinely helpful for the retail investor in making an investment decision.

Question

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

35. A slight majority of respondents expressed a preference for including the competent authority of the fund in the KID. Among those who shared this view, some would prefer to identify the domicile of the fund. A majority of respondents were in favour of excluding information on the tax regime of the fund in its home MS, mainly on the basis that such information would be too complex for the average investor to understand or that it was more appropriate to disclose it elsewhere.

36. CESR has recommended including in the list of items to be tested both the identity of the competent authority and a warning on the possible impact of tax on the fund in its home MS. However, it has recommended testing specifically whether stakeholders find added value in these items.

Question

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

37. As noted above, respondents made numerous suggestions for additional items of information that should be included in the KID. These included the currency of the NAV; reference to an independent source of information for the investor; the cut-off time for dealing instructions; the fund's ISIN number; and the existence of other share classes.



38. CESR has recommended testing with consumers, under Option B, the inclusion of information on the existence of other share classes, the cut-off time for dealing instructions, ISIN numbers and the currency of the NAV. However, CESR recognises that there are limits to the number of options that can realistically be tested.

Question

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

39. A majority of respondents supported CESR’s proposal not to unbundle distribution costs in the KID. This was generally based on the view that there were too many methods of distribution to cover, and that it should be for the distributor to disclose its costs. Some respondents felt such disclosure would in any case be too complex for the average investor to understand.
40. A small number of stakeholders, mainly on the retail side, favoured unbundling of distribution costs in the KID on the basis that the investor should have all costs available in one place.
41. CESR notes that distribution costs might vary between Member States and distribution channels, so that it may not be easy to include the breakdown of fees between the distributor and the asset manager in the KID, particularly given that the document will be the responsibility of the asset management company which may not have responsibility in relation to particular distribution arrangements. This point is also covered in our feedback on questions 46 and 47 below.

Question

14. Does the proposed approach to local information (a harmonised 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 (i.e. signposting local information to a website) feasible and appropriate?

42. The vast majority of respondents supported signposting local information rather than including it in the KID. Industry representatives raised a number of points in support of this, including the reduced risk of ‘goldplating’ or their view that it was more appropriate to rely on the distributor to provide such information.
43. In light of responses, CESR has decided to recommend excluding all local information from the KID, and instead signposting the location of this information on a website or a contact address valid throughout Europe. Further consideration will be necessary to decide whether a (direct) reference to the full prospectus available via a website or global contact address would be preferable. This website or global contact address would need to be capable of handling enquiries from investors from many Member States, signposting if necessary to local correspondents or websites if any.



44. CESR has made this recommendation for a number of reasons, including the fact that most practical information is not directly useful for the investment decision itself (except possibly the frequency of NAV calculation) and information on how to redeem the shares will also be available from distributors and on websites.
45. CESR is aware that the proposal to signpost some elements (such as local information, details about the computation of pay-off at term date, details on charges such as the calculation of performance fees) to a website or to the full prospectus might raise issues as regards the language in which the signposted information should be available. At this stage, CESR starts from the assumption that information signposted from a KID should be available in the same language as the KID itself. However, CESR highlights the need for further work in order to assess how this suggestion would interact with the fact that, under the Level 1 proposals, the full prospectus could be written in a language customary in the sphere of finance, and to identify the elements of the signposted information for which it would be appropriate to require translation.

Question

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

46. There was no support among respondents for the building block approach. All stakeholders were of the view that such an approach would reduce comparability and risk the benefits of having all the relevant information 'at a glance' in a single, concise context.
47. CESR confirms that it does not favour the building block approach; this is reflected in the advice to the Commission and the recommendations for testing.

Question

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

48. There was broad agreement with CESR's proposal that there should be no detailed provision of information about each of the underlying funds for a fund of funds. Two exceptions were raised: on the industry side, one respondent called for the KID to include an indication of the target funds' costs calculated ex-ante and shown on a maximum basis; one retail representative, meanwhile, favoured a detailed look-through for situations where this was necessary for the investor to understand the character of the investment.
49. CESR recommends that, with certain exceptions, funds of funds should be treated as a single fund which happens to invest in a portfolio of other collective funds, as opposed to a portfolio of securities. However, in order to deliver effective disclosure of the risk factors, it may be necessary to 'look through' to the characteristics of its underlying funds. A similar approach applies to the information on charges, where CESR recommends that there should be 'look-through' to include all the charges of the underlying funds, as is currently required under the SP.

Question

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?

50. Most respondents that expressed a view were in favour of requiring a KID to be produced for individual sub-funds. However, some industry representatives felt this should not apply in the case of funds that were only open to qualified investors, or should only be on an optional basis.
51. Industry stakeholders were generally in favour of allowing firms to produce a consolidated KID for umbrella structures. One respondent favoured the idea of allowing firms to produce a two-part KID: the first part containing key information that was common for different sub-funds; the second part containing specific information on charges, risks, investments objective and strategy of the particular sub-fund(s) promoted to investor.
52. The detailed information about investment objectives, risk factors, charges and past performance that CESR has recommended in its advice will clearly be specific to each separate sub-fund. In order to achieve the expected benefits of KII, CESR thinks it is desirable for a separate and stand-alone KID to be produced for each individual sub-fund. This will enable investors to see the essential information about the fund at a glance, provided the recommendations on format and presentation are consistently applied, and will facilitate comparison between funds provided by two or more different operators.
53. CESR does not in principle favour the production of a document in which the separate KII disclosures of each sub-fund are compiled so as to appear one after the other. This is because, in CESR's view, providing the investor with a document that combines the details of numerous sub-funds is likely to detract from the impact of the information about each particular sub-fund, so that the investor may fail to appreciate its significance when compared with the same information provided for a single, stand-alone fund. However, CESR notes that such an approach may be necessary where local marketing regulations require it. Nor, subject to national legislation, does CESR see any objection to either a UCITS operator or a distributor producing marketing documents that show a summary of the features of two or more sub-funds in an umbrella, provided such documents are in addition to the KII, not in substitution for them.
54. It is acknowledged that this approach, as compared with a compendium document, will result in a degree of duplication, especially in relation to elements of the KII contents that are common to every sub-fund in a particular umbrella. .
55. As noted in the advice, CESR proposes testing whether a statement of the existence of a 'protected cell' structure might be helpful for investors.

Question

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?



56. Most respondents supported CESR's proposal of allowing firms to use a representative share class in the KID; several industry stakeholders emphasised the need for appropriate flexibility in this area, while others called for clarification on what could be chosen as the representative class.
57. The few respondents who were not in favour of the proposal felt that it may lead the investor towards an inappropriate investment choice, or that it would simply not be feasible.
58. CESR has considered whether providers should be required to produce a separate KID for each class of units available to investors. Although some providers might wish to do so, others might prefer to combine the information about two or more classes into a single KID. CESR believes it is reasonable to combine information where the presentation continues to meet certain requirements, and does not make the KID too complex as a result.
59. Providers may also wish to prepare a KID in which one class stands for other classes on a representative basis. CESR recommends that this should be permitted⁷ where the UCITS operator is satisfied that use of the chosen class will be fair, clear and not misleading. It should be for the operator to identify which class, if any, is suitably representative of others, depending on the particular characteristics of the fund. The operator should ensure that the description of risk factors does not omit any material risk applicable to any of the other classes. Where charging structures differ between classes, the class with the highest overall charge (and therefore the weakest past performance record) might be selected, although CESR notes there is a risk that this might bias investors and advisers towards the purchase of units in that class, rather than another offering lower charges.
60. There may be other bases for choosing a representative share class than simply choosing the class with the highest fees; for example, the difference between distributing or accumulating share classes in an income generating fund. CESR notes that further work may be necessary to establish whether more detailed requirements or guidance are necessary in this regard. CESR emphasises the principle that the information should in all cases be 'fair, clear and not misleading'.
61. In all cases where a single KID does not contain full details of every available share class, reference should be made in it to the fact that other classes are available, with an indication of where information about them can be found.

Strategy and objectives

Question
19. Do you think that CESR's proposals on the presentation of the strategy and objectives of a fund are appropriate?
20. In particular, is it relevant to merge strategy and objectives into one generic item?

⁷ CESR emphasises that firms should never be required to use a representative class, and should remain free to produce a separate KID for each class if they wish.



62. Respondents broadly welcomed CESR's proposals on the presentation of the strategy and objectives of a fund and, in particular, the proposal to merge strategy and objectives into one generic item.
63. CESR has confirmed its proposals in its advice to the Commission. The advice also recommends distinguishing more clearly between the investment universe and the way the manager intends to select the assets within this universe.

Questions

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?
22. More specifically, do you agree that it should be required that in case the capital is not legally guaranteed, the term 'guaranty' should not be used in the KII, and it should be shortly 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?

64. The majority of stakeholders agreed that it was a sensible approach to consider the current Recommendation for the purpose of identifying which items of information to include. Feedback is given at the appropriate section below on respondents' comments on the inclusion of information on the guarantee, holding period and whether the fund has been designed for non-sophisticated investors.
65. CESR notes that it has recommended moving the information on the holding period and the capital guarantee to the risk/reward section of the KID.

Guarantee

66. A number of respondents, particularly on the retail side, expressed support for a clear statement on whether the capital is guaranteed. Meanwhile, the majority of industry stakeholders felt that a fund should not be required to state that it is not guaranteed.
67. There was a broad consensus among respondents that the word 'guarantee' should only be used in the case of a legal guarantee. There was also significant support for identifying the guarantor. Views were more mixed, however, on whether the extent of the guarantee should be explained and how much information the KID should contain on any capital protection in place.
68. CESR recommends that where protection of the capital is promised but is not backed by a legal guarantee, the term 'guarantee' should not be mentioned in the KID. Where the fund does not aim to provide any kind of capital guarantee, CESR recommends no specific information on this subject should be included in the KID, on the ground that this should in any case be an easy conclusion to draw from the presentation of the risk/reward profile, which would mention the fluctuations in the net asset value or the possibility of a loss of part of the capital invested.

69. CESR is nevertheless aware that investors may be confused by technical information of this kind, the implications of which are not straightforward. Appropriate consumer testing may identify how to best convey an understanding of the extent of any guarantee. CESR recommends testing investor's comprehension of any guarantees or protection offered and, in particular, whether they understand the limits to partial or unconditional guarantees, to confirm that it is not necessary to adopt a more radical presentation.

Question

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?

70. Respondents expressed mixed views on the inclusion of such wording on the time horizon. Many industry stakeholders expressed concerns that it might be misunderstood by investors as a maximum holding period or guarantee; others felt it could create difficulties in the interaction with MiFID requirements on suitability and appropriateness, or was not sufficiently tailored to a potential investor's individual circumstances. Some of those who were not in favour of the proposed wording suggested rephrasing the item as a recommended minimum holding period.

71. A significant number of investors' respondents did support the proposal, particularly among retail representatives.

72. CESR has tried to strike a balance between the importance of the investment horizon as a factor to consider (both for the investor and the management company) and the potential for misunderstandings resulting from such information. In particular, if it is displayed as a minimum holding period, investors might believe that they can only redeem their units after the holding period has passed, or that if they hold units to the end of this period they will get an optimal return. To prevent such misunderstandings, CESR proposes to present this feature the other way round. CESR has examined other approaches to the one proposed, but considers them to be potentially misleading.

Question

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?

73. The majority of respondents felt that the proposed wording on whether a fund had been designed for non-sophisticated investors would be difficult to apply in practice or could cause confusion. In particular, it was noted that all UCITS were retail products and were classified as non-complex products under MiFID.

74. A minority of stakeholders (representing both industry and retail investor opinion) supported the proposal, although one respondent noted that it should not be phrased in such a way as to overtly dissuade a prospective investor from choosing a particular fund.
75. CESR considered introducing this item in order to flag funds designed for professional investors, with a view to preventing misselling especially in the case of ‘execution only’ subscriptions. In the light of responses to the consultation, CESR has agreed not to explore this option any further at this stage.

Risk/reward

Question

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

76. There were very mixed views among respondents on the best way forward regarding risk/reward disclosure. A majority of industry representatives favoured a narrative approach, while retail representatives (as well as a minority on the industry side) generally favoured a synthetic risk/reward indicator (SRI) alongside a narrative text.
77. Those in favour of an SRI felt that it would convey information about risk/reward more effectively to investors and would aid comparability. It was pointed out that many existing funds already use an SRI of some kind and that a variety of viable calculation methodologies already existed, such as standard deviation or VaR. Those against an SRI raised a number of concerns, including the potentially misleading effect it could have on the investor and the difficulty of developing a sufficiently comprehensive methodology.
78. CESR recognises the different arguments for and against a synthetic indicator. In order to get a better understanding of the potential benefits (and drawbacks) of such an indicator for investors, CESR recommends the adoption of an SRI as a preferred option for testing with stakeholders and consumers. CESR stresses the need to increase common understanding of existing methodologies and assess to what extent their limitations can be identified, possibly reduced and appropriately disclosed.
79. CESR also recommends that the option of having an improved narrative approach should not be abandoned at this stage, and should be tested alongside the synthetic risk/reward indicator.

Question

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

80. Most respondents who expressed a view on the presentation of an SRI favoured a numerical scale (from 1 to 5 or 1 to 7). Other suggestions included a sliding ‘thermometer’ scale, ‘smileys’, or a different form of icon.



81. Considering the timetable, CESR has not conducted an extensive review of possible presentation schemes for synthetic indicators. Some high-level guidelines are proposed in the criteria table in Annex 4 of the advice.

82. The presentation of a qualitative indicator can be done in many different ways: scales, icons, words (from low to high risk). In view of the possible different understandings that might be observed in presentations using icons or adjectives, CESR suggests that one single (numeric) scale for all funds if possible (e.g. 1 to 5) might be the most appropriate. This has to be challenged in consumer testing compared to other possible approaches.

Question

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

83. A significant number of respondents, particularly on the industry side, called for a harmonised methodology to be in place before any consumer testing of the KII proposals. There were mixed views as to whether such a methodology should be defined by the industry (and endorsed by CESR and the Commission) or developed by CESR alone.

84. CESR is aware that testing the relevance of a synthetic risk indicator with investors would ideally require the corresponding calculation methodology to have been selected first. This is so the possible limitations of the methodology can be identified in order to test whether these limitations are correctly understood by investors and whether the indicator is still useful for them despite these limitations.

85. At this stage, CESR does not wish to recommend any specific methodology, but is aware that most of the existing calculations are volatility-based or strongly correlate with volatility measures. Thus, CESR suggests adopting, for the purposes of testing consumer comprehension of different presentations, generic wording for the explanatory text that refers to the usual features and limitations of volatility-based calculations.

Question

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

86. Respondents suggested a number of options for a specific calculation methodology, particularly methodologies using measures of volatility, such as its standard deviation or VaR.

87. Please see our feedback to question 27 above.

Question

29. Is the suggested assessment grid Annex 4⁸ for methodological and presentation issues appropriate and sufficient for identifying a relevant methodology?

88. Most respondents focused their comments on the relative merits of a synthetic indicator versus a narrative approach. Those stakeholders who commented on the assessment grid felt it was an appropriate basis for identifying a methodology.
89. CESR is committed to delivering as much evidence as possible on the issue of synthetic indicator calculation and presentation to the Commission, beyond the straightforward conclusions regarding the broad options available which should be further tested with consumers and stakeholders.
90. In particular, CESR considers it useful to provide the Commission with a grid of criteria that any calculation methodology and presentation of a synthetic risk/reward indicator should be considered against. A draft grid for that purpose is included at Annex 5 to the advice. Such criteria might then be used either to identify or develop a common methodology at European level, to be built either by regulators or by the industry.

Questions

30. How could the potential limitations of the quantitative calculation of a synthetic risk/reward indicator be further mitigated?
31. Do you agree that the possible limitations to a risk reward might be effectively communicated to consumers through textual warnings? Is the proposed wording appropriate?

91. The vast majority of respondents (whether they were in favour of an SRI or not) felt that any SRI that was introduced should be complemented by some narrative text. However, respondents did not provide many detailed suggestions on the content of such wording.
92. CESR has reached a consensus that where a synthetic risk/reward indicator is adopted, appropriate explanatory text should supplement it to avoid or at least limit misunderstandings. Proposals made along these lines should also allow for easier testing of practical mock-ups with investors.

Question

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

93. Respondents that favoured a narrative presentation highlighted a number of types of fund that they believed would not be captured by a quantitative methodology, including: funds with a guarantee of invested capital; funds with non-linear dependence on market prices e.g. formula funds; absolute return products; hedge funds and funds of hedge funds; and life cycle products.
94. In terms of risks not covered by such a methodology, the following were identified: default, operational, political, legal, tax, credit/liquidity, model, sector, country and counterparty risks.

⁸ There was an error in the consultation paper – the reference should have been to Annex 5 of the document.

95. CESR is aware of the concerns held by many stakeholders in relation to types of fund or risk not covered by an SRI. There is clearly further work to be done with stakeholders in order to assess different methodologies for calculating a synthetic risk/reward indicator. CESR notes that engagement with the industry will be crucial in order to identify the pros and cons of existing methodologies, and the possibility of developing a common agreed calculation. Funds for which the methodology would be inadequate should also be identified and appropriate disclosures developed beyond CESR's abovementioned proposal.

Question

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?

96. A significant number of respondents, both on the industry and retail sides, were in favour of the possibility of including tables or scenarios for formula funds. One respondent noted, however, that this might risk the two-page limit for the KID. There were mixed views on the extent to which guidance or prescription was needed on the content of such tables.

97. A small number of industry stakeholders were not in favour of tables or scenarios for formula funds, mainly on the basis that they were likely to be misleading.

98. CESR considers that it should be tested whether presentations involving tables or scenarios are helpful as regards investors' understanding of possible pay-offs at maturity.

99. CESR is aware, however, that requiring a specific presentation (forward or backward-looking) for structured funds in the KID would raise issues of harmonization of the presentation. The use of such a specific presentation raises further issues, such as the type of funds for which such an additional display would be helpful. In its advice to the Commission, CESR has proposed high-level principles to be used in identifying which funds are covered.

100. CESR intends to undertake further work on the possible harmonised display of such information and on the possible need for guidelines on the selection of scenarios, backtesting or probability tables.

Question

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

101. There were a number of comments on the principles that had been set out with a view to improving narrative disclosure. On Principle 3 (displaying in qualitative terms the likelihood of loss or gain), some argued that it should be reworded or removed altogether; while some felt the wording of Principle 5 (fostering comparability with other products) was inappropriate as the KID should be fund-specific. A few respondents felt Principle 6 was either unnecessary or incompatible with the remaining principles.



102. CESR remains nonetheless of the view that the Principles, as currently drafted, provide a robust set of guidance which will encourage a more informative and focused narrative disclosure.

Past performance

Question

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

103. The vast majority of respondents agreed that past performance information should be included in the KID, on the basis that investors (rightly or wrongly) consider it a useful source of information and, if not via the KID, are likely to acquire it from another source. Some retail investors' representatives were less enthusiastic about its inclusion but would be comforted by prescriptive requirements on the format and content, a less prominent display of such information or inclusion of a relevant benchmark for comparison.

104. Evidence suggests investors typically view past performance information as key, and so are likely to seek it out. CESR therefore confirms its view that such information should be integrated in a consistent and standardised way into the KID. This is supported by the likelihood that the information would be included in other marketing material forming part of the sales process.

Question

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

105. Respondents were broadly supportive of CESR's proposals for standardising past performance information. Two issues generated the most detailed comment: benchmarks and the period for which information should be provided.

Benchmark

106. There was a significant proportion of industry opinion against inclusion of a benchmark in cases where the fund is not managed against one. Retail representatives, meanwhile, were generally in favour of a benchmark in all cases and highlighted the practice in the US. Several of these stakeholders noted that there should be consistency in relation to capitalisation of dividends between the past performance information and the benchmark.

107. A number of respondents raised the question of how past performance information would interact with host states' marketing regimes.

Period

108. Respondents expressed mixed views on the period to be covered by past performance information. There was a reasonable amount of support for a period of 10 years, but some stakeholders who shared this view felt that funds should have the option of showing cumulative returns over set periods. Several industry respondents preferred 5 years on the basis of consistency

with MiFID. There were also calls from industry for new funds to be allowed to show data for less than 1 year; one retail representative specifically argued against this, as well as raising concerns over simulated performance.

109. CESR confirms its approach to presentation of past performance information as set out in the consultation paper, and as detailed in Chapter 6 of the advice.
110. CESR also recommends that the Commission consider how to ensure that the KID is an effective, harmonised document.

Benchmark

111. CESR recommends testing a presentation which includes a benchmark for purposes of comparison. In general terms, CESR would recommend the inclusion of a benchmark wherever this is feasible, and testing with investors their comprehension and use of benchmarks.
112. CESR notes that further technical work may be necessary in relation to the circumstances in which benchmarks are mandatory, to provide greater clarity as to when a fund can be taken to be managed against a benchmark.
113. CESR recommends that where the fund reinvests income, any linked index or benchmark shown should be shown on the same basis.
114. In the case of UCITS feeder funds, CESR suggests that the performance of the master fund should not be shown in addition to that of the feeder, but if the master fund itself has a benchmark, that benchmark should be shown alongside the performance record of the feeder.
115. CESR notes that the choice of index should be the responsibility of the management company, but would need to be relevant and appropriate and governed by the general requirement that information be ‘fair, clear and not misleading’.

Period

116. CESR has recommended in its advice to the Commission that as much past performance information as is available be shown up to a period of 10 years. CESR is of the view that showing a longer period is likely to enhance investor decision-making.

Question

37. Which charges should performance figures take into account? For instance, should figures include allowance for subscription and redemption fees?
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117. Most respondents felt that the past performance data should be based on the fund NAV i.e. not including allowance for subscription and redemption fees.
118. In relation to the calculation methodology, CESR has recommended that the past performance data be presented net of charges borne by the fund.

Charges

Question

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

119. Respondents generally welcomed CESR's approach to presentation of charges, but expressed mixed views on the two options set out in the consultation paper.
120. CESR is recommending that both proposed options on charges be included in the testing, with two variants of one of the options.

Question

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

121. A majority of industry respondents strongly supported option A (an improved version of the current approach) as set out in the consultation paper. This was mainly on the basis that it would avoid the assumptions necessary in option B (the addition to option A of a summary measure), which many respondents felt were potentially confusing for investors.
122. A minority of respondents, most of whom were retail representatives, favoured option B.
123. CESR recommends that the Commission should test both of these presentations of charges with consumers to assess their relative effectiveness in aiding the consumer's understanding of charges, and in particular to establish whether the addition of an illustration of the charges offers an incremental improvement in consumer understanding.

Question

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

124. Industry representatives were generally against the idea of disclosing charges in cash terms. Some felt this was potentially misleading; others felt it would take up too much space or simply that percentages were sufficient.
125. A minority of respondents expressed support for disclosure in cash terms, including both industry and retail representatives. It was suggested that the cash disclosure could take the form of an example attached to the summary figure.
126. CESR recommends that the Commission concentrate on presentations using percentages. However, CESR also notes consistent support from consumer representatives (backed up by wider research) for the idea of testing with investors a presentation showing cash figures, and so recommends doing so using a variant of option B. The testing could profitably concentrate on

whether investors find such a presentation more effective and whether they understand it to be offering a promise of potential returns.

Question

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?

127. Respondents made a range of observations and suggestions on how best to organise and label the information on charges. One respondent suggested replacing the term 'initial' with 'entry', in order to show more clearly the link with 'exit' charges. Another respondent proposed that the charges be grouped into the following categories: 'initial', 'annual', 'event/transaction' and exit charges.

128. CESR agrees that the term 'entry' charge is better than 'initial' charge; this is reflected in the advice to the Commission.

Question

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?

129. Most respondents were in favour of including a single figure for ongoing fund charges. Those who held this view preferred the use of ex-post figures, accompanied by a statement that charges may vary from year to year. Overall there was significant support for continued use of TER, albeit with a more harmonised basis for calculation in order to ensure comparability of funds.

130. Given the aim of the KID to show in a concise way only key information, CESR recommends testing presentations which only show a single 'ongoing fund charges' figure. This will require specific narrative statements, examples of which are included in the advice, which may need to be adjusted depending on the outcome of further technical work on the calculation of the figure.

131. There is a spectrum of possible approaches to harmonising the calculation of this figure, including basing it on ex-post or ex-ante methods or a combination of them. In broad terms, a majority of consultation respondents favoured ex-post figures accompanied by a statement that charges may vary from year to year. CESR notes that further technical work is needed in this area.

Question

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

132. There was a broad consensus that the information on charges in the KID should be updated promptly following material changes, and at least annually. Several industry representatives felt

that there should be no need for regulatory approval following such changes; one respondent from the retail side, meanwhile, felt that investors should be given the basis to challenge such changes where appropriate.

133. The issue of updating the charges information is relevant in the context of ex-ante and ex-post figures. The latter could be misleading – for example, where the fund’s annual management charge has increased and this has not yet been reflected in ex-post figures. CESR notes that work will need to be done to explore the handling of such scenarios.

Question

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?

134. A small number of respondents (from industry and the retail side) called for these charges to be included in the ongoing charge figure. Some felt this should be on an ex-post basis only. However, the majority of respondents preferred to see such charges excluded from the ongoing charge figure. Many felt such charges were not readily understood by investors and were in any event already covered in the performance figures. A number of respondents felt that there should at least be a reference to the existence of such charges, perhaps with a signpost to a more detailed explanation elsewhere.
135. There was widespread support for not including the portfolio turnover rate (PTR) in the KID.
136. CESR recommends that the PTR currently disclosed in the SP should be excluded from the KID, on the grounds that the average consumer is not well equipped to interpret this rate.
137. CESR has explored views, given the absence of PTR, as to whether portfolio transaction costs should be explicitly disclosed or included in the disclosure of ongoing fund costs.
138. While portfolio transaction costs may be relatively easy to account for when examining equity-based funds, transaction costs relating to other asset types may not be transparent. There was no clear consensus on this question in CESR, particularly as some noted evidence that transaction costs can be a material drag on performance. Others noted that such costs are reflected in fund pricing and illustrated within performance information. Various disclosure options exist, including the use of a specific narrative warning for funds where transactions costs might be a drag on performance, given that past performance figures themselves will expose the impact of transaction costs.
139. Therefore, CESR at this stage recommends testing example presentations which exclude portfolio transaction costs from ongoing charges disclosures, and which include a specific narrative disclosure of this exclusion. CESR recommends explicitly testing investors’ comprehension of this.

Question

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

140. A significant number of respondents, both from industry and the retail side, agreed to the proposal in the consultation i.e. to include a brief explanation of such a fee but not lengthy detail. A similar proportion of respondents felt it would be more effective to include a reference to the full prospectus, or to rely on the distributor to disclose such fees. One respondent supported inclusion of a full explanation of the performance fee, even if this jeopardised the two-page limit.
141. Some respondents noted that including performance fees within the ongoing charges disclosure itself would potentially increase the volatility of the disclosure, making it difficult for investors to interpret.
142. CESR notes that performance-related fees can be an important element of charges and that their existence for a particular fund should be disclosed within the KID. However, since the KID is intended to be a short document which provides key messages in a simple manner, it is unlikely to offer adequate space to fully describe some performance fee structures (in some cases these may require many pages, including scenarios, to adequately describe and illustrate).
143. CESR recommends including performance fees within the KID, through a simple statement of their existence and their basis (in summary form where that basis is complicated), with signposting to where a detailed description of their operation can be found. A statement should also be included to the effect that the impact of these fees is reflected in the past performance of the fund.
144. Further technical work will be needed to examine the handling of performance fees in relation to any ‘consolidated’ charges disclosure. In light of feedback from responses, CESR is proposing that performance fees not be included in the ongoing charges disclosure (TER).
145. CESR recommends at this stage testing investors’ comprehension of this approach, and whether additional information (such as specific ex-post figures for performance fees) might be necessary. CESR notes that further technical work may need to consider possible means of achieving consistency in the description and summary of performance fees in the KID, to ensure investors are provided with sufficient information in the KID to understand their potential magnitude and nature.

Question

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

146. CESR’s proposal to disclose charges on a maximum basis was supported by a significant majority of respondents. At the same time, the importance of the explanatory wording was highlighted by several respondents.
147. Two respondents argued against disclosure of charges on a maximum basis, both of whom preferred channel-specific disclosure.
148. CESR proposes that all charges included in the KID are shown at their maximum level, with a clear indication that these are maximum figures and lower figures may apply.

Question

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

149. Several respondents (from industry and the investors' side) argued that distribution fees should be disclosed at the level of the distributor. The MiFID inducements provisions were mentioned as being relevant in this context.

150. CESR recognises the potential difficulties arising from the variety of arrangements which exist for the distribution and sale of UCITS. It has been noted that the charges disclosed on a generic document (which cannot take account of different distribution arrangements) might be significantly different to those which the customer actually pays. CESR's proposal to disclose charges at their maximum level (see question 46 above) is one way to tackle this issue. It will also be relevant to take account of MiFID and other requirements placed on distributors to disclose charges; CESR's advice does not contain a full analysis of these wider considerations.

Question

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?

151. A significant majority of respondents supported CESR's proposal to combine costs for such funds in a single disclosure. The minority that opposed such an approach preferred separate disclosure of the two sets of charges.

152. CESR suggests that in the case of option B, the summary measure of charges should combine the charges of the feeder fund and its master. This is preferred for reasons of simplicity, and because it is in line with the proposed disclosures in the feeder fund's report and accounts, but CESR notes that the resulting disclosure would not be able to show the relative costs of the feeder and the master.

Testing the benefits and assessing the costs of KII

Question

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

153. Respondents broadly welcomed the intention to submit the KII proposals to consumer testing. However, several industry representatives called for CESR and the Commission to consult stakeholders further during the testing phase (on this point, see the section 'Overview and scope of KII work' at the start of this document). There was also a suggestion from one respondent that the testing might not produce representative results.

154. A number of specific suggestions were made about how the testing should proceed:

- The KID must be tested alongside other literature.
- Individual elements of the KID should be tested before testing full mock-ups.
- The focus should be on information consumers find useful in the pre-contractual phase; there should then be testing of consumers' recollection of the content after reading the KID.
- Risk/reward and past performance are key areas; on the former, there is a need to be aware of possible subjective reactions towards an SRI (i.e. a favourable reaction which is not necessarily accompanied by a better understanding of risks and rewards).
- Testing should cover a wide range of stakeholders and different sales channels.

155. CESR is firmly of the view that the objectives of the KID proposals in relation to the failures of the SP are unlikely to be met if the KID is not appropriately used by investors within their decision-making processes.

156. For this reason, CESR considers that the testing must not only seek to establish consumers' preferences in relation to the proposals, but also objectively seek to establish whether the proposals can be understood by consumers and will be used by them. For example, a stated preference for a particular way of showing information about charges or risks does not mean that that information will be appropriately understood or relied on as part of the decision-making process.

157. By focusing on the extent to which consumers are able appropriately to interpret and use the information provided in the KID, the testing will assist in the fine-tuning of the KID and help demonstrate that the final proposals are capable of contributing to better decision-making by investors.

158. To aid in this, CESR has identified the issues which the testing could profitably address for each of the broad options being proposed. Detailed suggestions are included in Annex 5 of the advice, along with examples of the different options to be tested. Overall mock-ups are included in Annex 6.

159. CESR recognises that this testing will be challenging, not least because of the variety in consumer experience of the UCITS market across different Member States and between different distribution channels (e.g. between advised sales, those which are direct with the UCITS provider themselves, or those which are undertaken by means of an intermediate distributor such as a 'funds supermarket'.)

Questions

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

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

160. Respondents' views were very mixed on the cost implications of the KII proposals. Some industry representatives felt the costs were unlikely to be substantial; others noted that the costs

depended on the detail of the final provisions and the status of the legislation i.e. maximum harmonising regulation or directive. There were several calls for clarification on whether the KII regime would apply to existing funds or new funds only.

161. In its request for assistance, the Commission indicated that achieving its objectives for the KID (in particular more standardisation and better comparability) should also reduce the costs for UCITS management companies of producing and publishing investor disclosures.
162. It is therefore important that the one-off and on-going costs of replacing the SP with the KID are assessed as accurately as possible, to inform the Commission's decision. CESR's proposals have not yet been sufficiently developed to enable costs to be estimated with any precision, and this will not be fully possible until the range of options has been narrowed down through the first phase of consumer testing.

Questions

52. What, if any, transitional arrangements should there be if the SP is replaced with KII?
53. Is the gradual introduction of KII feasible?

163. Most industry representatives were in favour of a transitional period of some kind. Where a period was specified, this ranged from 6 months to 2 years. As with the likely costs of the new regime, some respondents explained that this would depend on whether existing funds would have to convert to the KID format.
164. A number of respondents from industry felt that firms should be allowed to introduce the KID for funds before the implementation date, if they wished.
165. Many respondents felt that a gradual introduction of the KID was feasible, although not all who were of this opinion would prefer such an approach.
166. Among the small number of respondents who felt a gradual introduction was not feasible, one consumer representative argued that it would reduce comparability for investors.
167. CESR notes that transitional arrangements of some kind may reduce firms' costs. This factor will have to be balanced against the potential loss of benefit to investors if the introduction of the KID proposals is delayed.

Annex 1

Respondents to CESR's Consultation Paper on content and form of Key Investor Information Disclosures for UCITS (Ref. CESR/07-669)

	Name	Activity
1.	Barclays Capital	Banking
2.	EACB (European Association of Co-operative Banks)	Banking
3.	European Banking Federation	Banking
4.	European Savings Banks Group	Banking
5.	French Banking Federation	Banking
6.	Italian Banking Association	Banking
7.	Millennium bcp	Banking
8.	Wirtschaftskammer Österreich	Banking
9.	Zentraler Kreditausschuss	Banking
10.	CNMV Investors' Department	Government regulatory & enforcement
11.	Professor Theo Nijman	Individuals
12.	Association Française de la Gestion Financière (AFG)	Insurance, pension & asset management
13.	Association of British Insurers	Insurance, pension & asset management
14.	Assogestioni	Insurance, pension & asset management
15.	BEAMA/Febelfin	Insurance, pension & asset management
16.	BlackRock	Insurance, pension & asset management
17.	BVI Bundesverband Investment und Asset Management e.V.	Insurance, pension & asset management
18.	CEIOPS	Insurance, pension & asset management
19.	EFAMA	Insurance, pension & asset management
20.	Fidelity International	Insurance, pension & asset management
21.	IMA	Insurance, pension & asset management
22.	INVERCO (Spanish Association of Collective Investment Schemes and Pension Funds)	Insurance, pension & asset management
23.	Investment and Life Assurance Group	Insurance, pension & asset management
24.	JPMorgan Asset Management	Insurance, pension & asset management
25.	Lipper	Insurance, pension & asset management
26.	Raiffeisen Capital Management	Insurance, pension & asset management
27.	Robeco	Insurance, pension & asset management
28.	Schroders	Insurance, pension & asset management
29.	The M&G Group	Insurance, pension & asset management
30.	DUFAS	Investment services

31.	International Financial Data Services (UK) Limited	Investment services
32.	Legal & General	Investment services
33.	State Street Corporation	Investment services
34.	ADOC	Investor relations
35.	Adusbef - Consumer association	Investor relations
36.	AMF Investors' Panel	Investor relations
37.	Danish Shareholders' Association	Investor relations
38.	UK FSA Consumer Panel	Investor relations
39.	Irish Financial Services Consultative Consumer Panel.	Investor relations
40.	Proxinvest	Investor relations
41.	Test-Achats	Investor relations
42.	Verbraucherzentrale Bundesverband	Investor relations
43.	Matheson Ormsby Prentice	Legal & Accountancy
44.	ALFI	Others
45.	CFA Institute	Others
46.	Consultative Panel of the CNMV	Others
47.	FAIDER	Others
48.	FIN-USE	Others
49.	Irish Funds Industry Association	Others
50.	Testé Pour Vous	Press
51.	Helex	Regulated markets, exchanges & trading systems

LIST OF RESPONDENTS TO CALL FOR EVIDENCE ON KEY INVESTOR DISCLOSURE FOR UCITS (REF. CESR/07-205, REF. CESR/07-241 AND REF. CESR/07-214)

	Name	Activity
1.	Bafin	Government regulatory enforcement
2.	RCM-Raiffeisen Capital Management	Insurance, pension & asset management
3.	GAM- Generali AM	Insurance, pension & asset management
4.	ING IM – ING Investment management	Insurance, pension & asset management
5.	BAMA-Belgian Asset Management Association	Insurance, pension & asset management
6.	FI-Fidelity International	Insurance, pension & asset management
7.	SIFA-Swedish Investment Funds	Insurance, pension & asset management

	Association	
8.	JPMAM-JP Morgan Asset Management	Insurance, pension & asset management
9.	ILAG – Investment & Life Assurance Group	Insurance, pension & asset management
10.	ABI- Association of British Insurers	Insurance, pension & asset management
11.	IMA – Investment Management Association	Insurance, pension & asset management
12.	AFG – Association française de la gestion financière	Insurance, pension & asset management
13.	AGI-Assogestioni – Italian Association of the investment fund and asset management industry	Insurance, pension & asset management
14.	BVI – Bundesverband Investment und Asset Management e.V.	Insurance, pension & asset management
15.	EFAMA	Insurance, pension & asset management
16.	ICI-Investment company institute	Insurance, pension & asset management
17.	WKO - Austrian Federal Economic Chamber	Insurance, pension & asset management
18.	ABI- Italian Banking association	Banking
19.	BVR- National association of the German Co-operative banks	Banking
20.	EBF-European Banking Federation	Banking
21.	VOB- Bundesverband Öffentlicher Banken Deutschlands	Banking
22.	FBF- Fédération bancaire française	Banking
23.	ESBG - World Savings Banks Institute /European Savings Banks Group	Banking
24.	ESH-Euroshareholders	Investors Relations
25.	FAIDER-Fédération des associations indépendantes de défense des épargnants pour la retraite	Investors Relations
26.	DAF-Danish Shareholders' Association	Investors Relations
27.	ACU-Associazione Consumatori Utenti	Investors Relations
28.	DECO –Portuguese consumer association	Investors Relations
29.	TA-Test-Achats	Investors Relations
30.	TPV-Testé pour vous	Investors Relations
31.	VZBV – Verbraucherzentrale Bundesverband	Investors Relations
32.	LIFI-Reuters-Lipper Fitzrovia	Others
33.	FSCP- UK Financial Services Consumer Panel	Others
34.	Adusbef	Others
35.	CNMV Consultative Panel	Others
36.	CCAMF- Commission consultative épargnant, Autorité des marchés financiers	Others
37.	Euronext	Others