



THE COMMITTEE OF EUROPEAN SECURITIES REGULATORS

Ref: CESR/08-113

**Summary of CESR's self assessment of the
implementation of the guidelines to simplify the
notification procedure of UCITS**

February 2008



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INTRODUCTION

1. The CESR'S Guidelines to simplify the notification procedure of UCITS ("the guidelines"), were published in June 2006 (CESR/06-120b), and CESR committed at the time to progress the implementation of the guidelines by reviewing them within two years by considering:
 - a. whether the authorities have implemented the guidelines;
 - b. whether UCITS pass portability has objectively improved, including with respect to the length of time it takes to complete the notification process; and
 - c. what steps can be taken to further improve their freedom of movement.
2. This document represents the first step of this commitment, namely the assessment of whether or not CESR members have implemented the guidelines which is done using a methodology developed by CESR for these purposes¹. The assessment is conducted in two phases, the first is the self-assessment stage (the results of which are set out in this document) in which members assess their application of each guideline by answering a number of questions that have been established for each guideline against a set of benchmarks. Full details of each member's individual responses to the questionnaire can be found on the CESR website [insert full link name].
3. This first stage will be followed by the peer review stage which involves each member's assessment being assessed by their peers the results of which will be published later during the course of the year. .
4. All thirteen guidelines were assessed, with each being broken down into fundamental key issues with questions asked about each of these (see Annex for full list of questions). For each guideline, benchmarks were established for the purposes of determining whether or not a member was applying the guideline, and overall benchmarks were established to assess the extent to which members were considered to have implemented the package of guidelines as a whole taking into consideration the commitments set out in the guidelines particularly the five areas of major improvements that the guidelines were designed to achieve:
 - **Language regime of the notification letter** –CESR agreed that the UCITS can submit the notification letter to the host authority in a language common in the sphere of international finance where this was not contrary to the domestic legislation or regulation;

¹ For details of this methodology see document []



- **Checking completeness of the notification letter:** - CESR agreed if the notification is incomplete, the competent host State authority shall inform the UCITS about the incompleteness and the missing information and documents as soon as possible and in any case within one month from the date of receipt of the incomplete notification.
- **Shortening of the two-month period:** CESR agreed that the two-month period is the maximum period available for the host State competent authority to check the notification and that it should be shortened whenever possible.
- **Certification of documents:** CESR agreed to rely on self-certification of copies of original attestations by the notifying UCITS and that the original attestation should include an English version, in order to simplify the practices and reduce costs for applicants.
- **Treatment of umbrella funds:** CESR agreed that the necessary time for the host authority to check new sub-funds which are added to the umbrella fund with the intention of being marketed in the host State, (where the marketing arrangements are already familiar to the host country competent authority) should be significantly less than the two-month period.

Summary of the self-assessment of the guidelines

5. This section of the report sets out a summary of CESR member's self assessment of their application of the guidelines.
6. It is divided into a number of sections, each one sets out the requirements of each guideline, the benchmarks that were established for each of them, what the self assessments of each guideline show and includes a graphical representation summarising how the members answered each of the questions.
7. This section of the report is divided as follows:

A. Procedure – Guidelines 1-10

I – General ~ guidelines 1-3

II. The two-month period

1. Starting the two-month period ~ guideline 4
2. Shortening the two-month period – guideline 5
3. Managing the two-month period – guideline 6

III. Certification of documents ~ guideline 7

IV. Translation – guideline 8

V. Umbrella funds – guidelines 9 -10

B. Content of the file – Guideline 11

C. Modifications and on-going process ~ Guideline 12

D. National marketing rules and other specific national regulations ~ Guideline 13

A. Procedure- Guidelines 1-10

A. I – General - Guidelines 1-3

Guideline 1

8. Set out below is summary of how CESR members have assessed themselves as applying guideline 1 which requires that:
- UCITS should be able to utilise the standard model letter for notification – as defined in Annex II - to the host competent authority;
 - UCITS should be allowed to submit the model notification letter in a language common in the sphere of international finance unless contrary to the domestic legislation and regulations in the host MS; and that
 - Competent authorities should allow submission of the model notification letter and the relevant attachments by electronic means and should facilitate electronic filing of the said documents¹.
9. There were 8 questions asked in relation to this guideline and the benchmarks for the assessment were:
10. **Full application of guideline 1 requires that all 4 of following requirements are met:**
- when acting as either host or home² authority the competent authority accepts the model notification set out in Annex II of the guidelines;
 - when the notification documents are provided in electronic form that UCITS are not required to submit hard copies;
 - the notification letter can be submitted in a language common in the sphere of international finance, unless this contradicts the host member's authority domestic legislation and regulations, in which case steps have already or are in the process of being taken to promote a change in the domestic requirements;
 - that the notification letters as well as all other documents and information required in the notification procedure can be submitted electronically, or if this is not the case that electronic filing is facilitated and that the notification period commences from the time of receipt of an electronic notification from the UCITS of the notification letter.
11. **Partial application of guideline 1 requires that all of the 3 following requirements are met:**

¹ Para. 8 of the Explanatory text relating to Guideline 1 states that "It is aimed by the Member States that the notification letter as well as all other documents and information required in the notification procedure as mentioned in these guidelines may also be submitted electronically. Where the notification documents are provided in electronic form it shall not be necessary to submit hard copies".

² In relation to the home authority- it is with respect to the home authority recommending the use of the standard notification letter to those UCITS looking to market their units abroad as clearly the acceptance of the model notification letter by the host authority is something that only the host authority can do.

- when acting as either host or home authority the competent authority accepts the model notification set out in Annex II of the guidelines;
- the notification letter can be submitted in a language common in the sphere of international finance, unless this contradicts the host member's authority domestic legislation and regulations, in which case steps have already or are in the process of being taken to promote a change in the domestic requirements; and
- that the notification letters as well as all other documents and information required in the notification procedure can be submitted electronically, or if this is not the case that electronic filing is facilitated and that the notification period commences from the time of receipt of an electronic notification from the UCITS of the notification letter.

12. **Non application of guideline 1 means that one of the following applies:**

- when acting as either host or home authority the competent authority does not accept the model notification set out in Annex II of the guidelines; or
- that the notification letters as well as all other documents and information required in the notification procedure can not be submitted electronically, or that electronic filing is not in any way facilitated.

What the self assessments of guideline 1 show

13. The self- assessments in relation to guideline1 show that the following **16** CESR members c have assessed themselves as **fully applying guideline 1:**

- Austria, Belgium, Bulgaria, Czech republic, Denmark, Estonia, Iceland, Italy, Luxembourg, Malta, Netherlands, Norway, Portugal Romania Spain and Sweden.

14. The self- assessments in relation to guideline1 show that the following **4** CESR members have assessed themselves as **partially applying guideline 1:**

- France, Hungary, Lithuania and Poland.

15. The self- assessments in relation to guideline1 show that the following **9** CESR members have assessed themselves as **not applying guideline 1:**

- Cyprus, Finland, Germany, Greece, Ireland, Latvia, Slovenia, Slovakia, and United Kingdom, of which the following
 - **2** CESR members are so classified only because they do not as a home competent authority recommend the notification letter set out in Annex II of the guidelines; Ireland and the United Kingdom; and
 - **7** CESR members are not able to facilitate electronic filing: Cyprus, Germany, Finland, Latvia, Slovakia, Slovenia and Greece.



16. All CESR members have assessed themselves as accepting the model notification letter set out in Annex II when acting as host competent authority.



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Answer to question is no
 Answer to question is not applicable
 Answer to question is Yes

KEY :

Elements	A	B	BU	CY	CZ	DK	EE	FIN	F	D	EL	HU	IS	IRL	I	LV	LT	L	MT	NL	NO	PL	P	SI	RO	SK	E	SV	UK
Question 1.a)	✓ 1	✓ 2	✓ 3	✓ 4	✓ 5	✓ 6	✓ 7	✗ 8	✓ 9	✓ 10	✗ 11	✓ 12	✓ 13	✗ 14	✓ 15	✗ 16	✓ 17	✓ 18	✓ 19	✓ 20	✓ 21	✓ 22	✓ 23	✓ 24	✓ 25	✗ 26	✓ 27	✓ 28	✗ 29
Question 1.b)	✓ 1	✓ 2	✓ 3	✓ 4	✓ 5	✓ 6	✓ 7	✓ 8	✓ 9	✓ 10	✓ 11	✓ 12	✓ 13	✓ 14	✓ 15	✓ 16	✓ 17	✓ 18	✓ 19	✓ 20	✓ 21	✓ 22	✓ 23	✓ 24	✓ 25	✓ 26	✓ 27	✓ 28	✓ 29
Elements	A	B	BU	CY	CZ	DK	EE	FIN	F	D	EL	HU	IS	IRL	I	LV	LT	L	MT	NL	NO	PL	P	SI	RO	SK	E	SV	UK
Question 2.a)	✓ 1	✓ 2	✓ 3	✓ 4	✓ 5	✓ 6	✓ 7	✓ 8	✓ 9	✓ 10	✓ 11	✓ 12	✓ 13	✓ 14	✓ 15	✓ 16	✓ 17	✓ 18	✓ 19	✓ 20	✓ 21	✗ 22	✓ 23	✓ 24	✓ 25	✓ 26	✓ 27	✓ 28	✓ 29
Question 2.b)	○ 1	○ 2	✗ 3	○ 4	○ 5	✓ 6	✓ 7	○ 8	✗ 9	○ 10	✓ 11	○ 12	✓ 13	○ 14	○ 15	✗ 16	✓ 17	○ 18	○ 19	✓ 20	○ 21	✓ 22	○ 23	○ 24	○ 25	○ 26	✗ 27	✗ 28	✓ 29
Elements	A	B	BU	CY	CZ	DK	EE	FIN	F	D	EL	HU	IS	IRL	I	LV	LT	L	MT	NL	NO	PL	P	SI	RO	SK	E	SV	UK
Question 3.a)	✓ 1	✓ 2	✓ 3	✗ 4	✓ 5	✓ 6	✓ 7	✗ 8	○ 9	✓ 10	✗ 11	✓ 12	✓ 13	✓ 14	✓ 15	✓ 16	✗ 17	✓ 18	✓ 19	✓ 20	✓ 21	✓ 22	✓ 23	✓ 24	✓ 25	✗ 26	✓ 27	✓ 28	✓ 29
Question 3.b)	○ 1	○ 2	○ 3	○ 4	○ 5	✓ 6	✓ 7	✗ 8	✓ 9	✓ 10	✓ 11	✓ 12	✓ 13	○ 14	✗ 15	✗ 16	✓ 17	✓ 18	✓ 19	○ 20	○ 21	○ 22	✗ 23	○ 24	✗ 25	○ 26	✗ 27	✗ 28	✓ 29
Question 3.c)	○ 1	○ 2	○ 3	○ 4	✓ 5	✓ 6	✓ 7	✓ 8	✓ 9	✗ 10	○ 11	✓ 12	✓ 13	✓ 14	○ 15	✗ 16	✓ 17	✓ 18	✓ 19	○ 20	○ 21	✓ 22	✗ 23	○ 24	○ 25	○ 26	✗ 27	✗ 28	✓ 29
Question 3.d)	✓ 1	✓ 2	○ 3	○ 4	✓ 5	✓ 6	✓ 7	✗ 8	○ 9	✗ 10	○ 11	✗ 12	✓ 13	✓ 14	✓ 15	✓ 16	✗ 17	✓ 18	✓ 19	✓ 20	✓ 21	✗ 22	✓ 23	✗ 24	○ 25	✓ 26	✓ 27	✓ 28	✓ 29

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Guideline 2

17. Set out below is a summary of how CESR members have assessed themselves as applying guideline 2 which requires that:
- UCITS duly authorised by the home Member State competent authority cannot be impeded from marketing in the host country unless the marketing arrangements do not comply with the provisions referred to in Art. 44(1) and Art. 45 of the Directive.
 - UCITS duly authorised by the home Member State competent authority cannot be impeded from marketing in the host country due to divergent interpretations on whether the UCITS complies with the Directive; and
 - If the marketing arrangements comply with the provisions referred to in Art. 44(1) and Art. 45 of the Directive, the passport of the UCITS has always to be respected.
18. There were 3 questions asked in relation to this guideline and the benchmarks for the assessment were:
19. **Full application of guideline 2 requires that all 3 of the following requirements are met:**
- That passports are not refused for any reason other than non compliance of the marketing arrangements adopted by the notifying UCITS;
 - That passports are not refused for any reason deriving from divergent interpretations on whether or not the UCITS complies with the Directive;
 - That the passport of the UCITS is always accepted if the marketing arrangements comply with the provisions referred to in Articles 44(1) and 45 of the Directive.
20. **Partial application of guideline 2 requires that following requirement is met:**
- That the passport of the UCITS is always accepted if the marketing arrangements comply with the provisions referred to in Articles 44(1) and 45 of the Directive.
21. **Non application of guideline 2 means that one of the following applies:**
- That passports **are** refused for reasons other than non compliance of the marketing arrangements adopted by the notifying UCITS; or
 - That passports **are** refused for reasons deriving from divergent interpretations on whether or not the UCITS complies with the Directive; or



- That the passport of the UCITS is **not always accepted** even if the marketing arrangements comply with the provisions referred to in Articles 44(1) and 45 of the Directive.

What the self assessments of guideline 2 show




22. The self- assessments in relation to guideline 2 show that the following **25** CESR members have assessed themselves as **fully applying guideline 2**:
- Austria, Belgium, Bulgaria, Cyprus, Czech republic, Denmark, France, Finland, Germany, Greece, Hungary, Ireland, Italy, Latvia, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Spain, Sweden and the United Kingdom.
23. The self- assessments in relation to guideline 2 show that the following **4** CESR members have assessed themselves as **not applying guideline 2**:
- Estonia, Iceland, Lithuania, Slovenia, of which the following members are so assessed because:
 - The following **4** CESR members refuse passports for reasons deriving from divergent interpretations on whether or not the UCITS complies with the Directive Estonia, Iceland, Lithuania, , Slovenia
24. **All** CESR members have assessed themselves as always accepting the passport of the UCITS if the marketing arrangements comply with the provisions referred to in Articles 44(1) and 45 of the Directive.
25. **No** members assessed themselves as partially applying guideline 2.










































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Guideline 2 : Summary of self assessments

KEY:

		
Answer to question is no	Answer to question is not applicable	Answer to question is Yes

Elements	A	B	BU	CY	CZ	DK	EE	FIN	F	D	EL	HU	IS	IRL	I	LV	LT	L	MT	NL	NO	PL	P	SI	RO	SK	E	SV	UK
Question 1	 1	 2	 3	 4	 5	 6		 7	 8	 9	 10	 11	 12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28
Question 2	 1	 2	 3	 4	 5	 6	 7	 8	 9	 10	 11	 12	 13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29
Question 3	 1	 2	 3	 4	 5	 6	 7	 8	 9	 10	 11	 12	 13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29



Guideline 3

26. Set out below is a summary of how CESR members have assessed themselves as applying guideline 3 which requires that:
- An investment company or a management company should be able to begin to market the units of UCITS in the host Member State two months after it has completed the notification, unless a reasoned decision is taken by the host Member State preventing the investment company or management company from starting the marketing;
 - Any decision of the host Member State preventing the investment company or a management company from beginning marketing can exclusively be grounded on non compliance with the provisions referred to in Art. 44(1) and 45; and
 - The decision preventing the marketing beginning should be subject to right of appeal.
27. There were 4 questions asked in relation to this guideline and the benchmarks for the assessment were:
28. **Full application of guideline 3 requires that all 4 of the following requirements are met:**
- that the marketing of the units of UCITS can begin two months after the notification has been completed, unless a reasoned decision is taken by the authority before the expiry of that period, that the UCITS' marketing arrangements do not comply with the provisions referred to in Art. 44(1) and Art. 45 of the Directive;
 - that the host member authority ensures that any decision preventing the UCITS from starting the marketing can exclusively be grounded on non-compliance of the UCITS' marketing arrangements with the provisions referred to in Art. 44(1) and Art. 45 of the Directive;
 - where a decision preventing the UCITS from starting the marketing is taken by the host member authority, it communicates the reasons for such decision to the notifying UCITS; and
 - where a decision preventing the UCITS from starting the marketing is taken by the host member authority, the decision is subject to the right of appeal.
29. **Partial application of guideline 3 requires that all 3 of the following requirements are met:**

- that the marketing of the units of UCITS can begin two months after the notification has been completed, unless a reasoned decision is taken by the authority before the expiry of that period, that the UCITS' marketing arrangements do not comply with the provisions referred to in Art. 44(1) and Art. 45 of the Directive;
- that the host member authority ensures that any decision preventing the UCITS from starting the marketing can exclusively be grounded on non-compliance of the UCITS' marketing arrangements with the provisions referred to in Art. 44(1) and Art. 45 of the Directive; and
- where a decision preventing the UCITS from starting the marketing is taken by the host member authority, the decision is subject to the right of appeal

30. **Non application of guideline 3 means that one of the following applies:**

- that the marketing of the units of UCITS **can not** begin two months after the notification has been completed, for reasons other than a reasoned decision being taken by the authority before the expiry of that period, that the UCITS' marketing arrangements do not comply with the provisions referred to in Art. 44(1) and Art. 45 of the Directive; or
- that the host member authority **does not ensure** that any decision preventing the UCITS from starting the marketing can exclusively be grounded on non-compliance of the UCITS' marketing arrangements with the provisions referred to in Art. 44(1) and Art. 45 of the Directive.

What the self assessments of guideline 3 show

31. The self- assessments in relation to guideline 3 show that the following **27** CESR members have assessed themselves as **fully applying guideline 3**:

- Austria, Belgium, Bulgaria, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Norway, Portugal, Poland, Romania, Slovenia, Slovakia, Spain, Sweden and the United Kingdom.




32. In **2** CESR members Czech Republic and Malta – where a decision preventing the UCITS from starting the marketing is taken by them, the decision is not subject to the right of appeal as such the members have assessed themselves as not applying guideline 3 because some form of appeal procedure following the authority's decision is required.. In Malta's case, although no formal appeal process exists and the decision is final, in practice the authority communicated its intention to refuse the marketing and ask for comments and representations before the final decision is made.



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Guideline 3 : Summary of self assessments

KEY

Answer to question is no 	Answer to question is not applicable 	Answer to question is Yes 
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Elements	A	B	BU	CY	CZ	DK	EE	FIN	F	D	EL	HU	IS	IRL	I	LV	LT	L	MT	NL	NO	PL	P	SI	RO	SK	E	SV	UK
Question 1																													
Elements	A	B	BU	CY	CZ	DK	EE	FIN	F	D	EL	HU	IS	IRL	I	LV	LT	L	MT	NL	NO	PL	P	SI	RO	SK	E	SV	UK
Question 2																													
Elements	A	B	BU	CY	CZ	DK	EE	FIN	F	D	EL	HU	IS	IRL	I	LV	LT	L	MT	NL	NO	PL	P	SI	RO	SK	E	SV	UK
Question 3.a)																													
Question 3.b)																													



A.II The two-month period – Guidelines 4-6

33. This section of the report sets out how members assessed themselves as applying guidelines 4-6 which deal with how the requirement to review the notification within a maximum period of two months, and to shorten this where possible and is sub-divided as follows:

- guideline 4 - Starting the two-month period .
- guideline 5- Shortening the two-month period.
- guideline 6 - Managing the two-month period.

A. II.1 Guideline 4 - starting the two month period

34. Set out below is a summary of how CESR members have assessed themselves as applying guideline 4 which requires that:

- the two month period should start when the notification submitted by the UCITS is completed;
- a notification should be considered as completed once all information and documents as provided in the Directive and the Guidelines have been submitted to the host competent authority;
- the host competent authority should inform the UCITS that its notification is incomplete as soon as possible, and in any case within one month from the date of the receipt; and
- in case of no communication by the host competent authority, the UCITS can start marketing at the expiry of the two-month period.

35. There were 9 questions asked in relation to this guideline and the benchmarks for the assessment were:

36. **Full application of guideline 4 requires that all of the following 9 requirements are met:**

- that the two-month period starts only when the notification submitted by the UCITS is completed;

- that the notification is considered complete when all information and documents as provided for in the Directive and the Guidelines (cf. A.II., A.III., B. and D), including its annexes, have been received;
- that the host member authority checks that the documents provided are attached to the notification letter and that a preliminary assessment of the content of the documents is done in order to ensure that all necessary information is at the host member authority's disposal;
- that the host member authority confirms receipt of the notification,
- that the host member authority informs the notifying UCITS about the incompleteness of the notification, the missing information and documents as soon as possible and in any case within one month from the date of receipt of the incomplete notification;
- that in the absence of communication from the host member authority to the notifying UCITS after two months of the delivery of the complete notification, the UCITS may upon the expiry of the two-month period start to market its units in the host member authority's territory;
- that when¹ the host member authority requests the notifying UCITS to submit the missing documents and information, a maximum time limit of 6 months is set within which the UCITS must provide the requested documents and information;
- that when the host member authority informs the notifying UCITS regarding the date of the start of the two-month period, and that such communication is made as soon as possible, and in any case at the latest within one month after receipt of the complete notification²; and if applicable
- that if there is no communication from the host member authority to the UCITS after a month from the date of the receipt of the notification, it is assumed that the notification is complete since the date of its receipt.

37. Partial application of guideline 4 requires that all 3 of the following requirements are met:

- that the two month period starts only when the notification submitted by the UCITS is completed;

¹ Note that the requirement to set a deadline is optional – but if it is done then it can not be longer than a maximum of 6 months.

² Note that this requirement is optional – but if done then it should be done as soon as possible and at the latest within a month after receipt of the completed notification.

- that the notification is considered complete when all information and documents as provided for in the Directive and the Guidelines (cf. A.II., A.III., B. and D), including its annexes, have been received; and
- that in the absence of communication from the host member authority to the notifying UCITS after two months of the delivery of the complete notification, the UCITS may upon the expiry of the two-month period start to market its units in the host member authority's territory.

38. **Non application of guideline 4 means that one of the following applies:**

- that the two-month period **does not** only start when the notification submitted by the UCITS is completed; or
- that the notification **is not** considered complete when all information and documents as provided for in the Directive and the Guidelines (cf. A.II., A.III., B. and D), including its annexes, have been received; or
- that in the absence of communication from the host member authority to the notifying UCITS after two months of the delivery of the complete notification, the UCITS **may not** upon the expiry of the two-month period start to market its units in the host member authority's territory.

What the self assessments of guideline 4 show

39. The self- assessments in relation to guideline 4 show that the following **24** CESR members have assessed themselves as **fully applying guideline 4**:

- Austria, Belgium,¹ Cyprus, Czech republic, Estonia, Denmark, France, Finland, Germany, Greece², Iceland, Italy, Ireland, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Spain, Sweden and the United Kingdom.

40. The self-assessments in relation to guidelines 4 show that **5** CESR members Slovakia³, Slovenia, , Latvia, Hungary, Bulgaria only partially apply guideline 4 because they **do not** confirm receipt of the UCITS notification.

¹ Note that neither Austria or Belgium set a deadline for requesting the notifying UCTIS to submit missing documents etc.

² Note that Denmark, Finland and Greece do not inform the UCTIS regarding the start of the 2 month period.




³ Note that Slovakia will be changing this within the next 2 months.



























































































































































































































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Guideline 4 : Summary of self assessments

KEY

Answer to question is no 	Answer to question is not applicable 	Answer to question is Yes 
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Elements	A	B	BU	CY	CZ	DK	EE	FIN	F	D	EL	HU	IS	IRL	I	LV	LT	L	MT	NL	NO	PL	P	SI	RO	SK	E	SV	UK
Question 1																													
Elements	A	B	BU	CY	CZ	DK	EE	FIN	F	D	EL	HU	IS	IRL	I	LV	LT	L	MT	NL	NO	PL	P	SI	RO	SK	E	SV	UK
Question 2.a)																													
Question 2.b)																													
Question 2.c)																													
Elements	A	B	BU	CY	CZ	DK	EE	FIN	F	D	EL	HU	IS	IRL	I	LV	LT	L	MT	NL	NO	PL	P	SI	RO	SK	E	SV	UK
Question 3.a)																													
Question 3.b)																													
Question 3.c)																													
Elements	A	B	BU	CY	CZ	DK	EE	FIN	F	D	EL	HU	IS	IRL	I	LV	LT	L	MT	NL	NO	PL	P	SI	RO	SK	E	SV	UK
Question 4.a)																													
Question 4.b)																													



A.II.2 GUIDELINE 5 - Shortening the two-month period

41. Set out below is summary of how CESR members have assessed themselves as applying guideline 5 which requires that:
- The host competent authority can not extend the two-month period;
 - The host competent authority should shorten the two-month period whenever possible;
 - The host competent authority should communicate to the UCITS the outcome of the check as soon as this has been completed, in order to allow the UCITS to start marketing immediately.
42. There were 3 questions asked in relation to this guideline and the benchmarks for the assessment were
43. **Full application of guideline 5 requires that all of the following 3 requirements are met:**
- That the two-month period is the maximum period available to the host competent authority to check the notification;
 - That the host competent authority ensures in it's day-to-day activity that the two-month period is shortened whenever possible; and
 - That the host competent authority informs the UCITS as soon as it has checked the notification so that the marketing may start immediately.
44. **Partial application of guideline 5 requires that all of the following 2 requirements are met**
- That the two-month period is the maximum period available to the host competent authority to check the notification; and
 - That the host competent authority ensures in it's day-to-day activity that the two-month period is shortened whenever possible.
45. **Non application of the guideline 5 means that any one of the following applies:**



- That the two-month period is **not the** maximum period available to the host competent authority to check the notification; or
- That the host competent authority **does not** ensure in its day-to-day activity that the two-month period is shortened whenever possible.

What the self assessments of guideline 5 show


46. The self-assessments in relation to guidelines 5 show that **25** CESR members **fully apply guideline 5** as follows:
- Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Norway, Portugal, Romania, Slovakia, Spain Slovenia and Sweden.
47. The self-assessments in relation to guidelines 5 show that **4** CESR members **have not applied guideline 5** as follows:
- Austria, Estonia, , Poland and the United Kingdom because they do not ensure in their day to day activities that the two month period is shortened whenever possible.





THE COMMITTEE OF EUROPEAN SECURITIES REGULATORS




















































































Guideline 5 : Summary of self assessments

Key

Answer to
question is no


Answer to
question is not
applicable


Answer to
question is
Yes


Elements	A	B	BU	CY	CZ	DK	EE	FIN	F	D	EL	HU	IS	IRL	I	LV	LT	L	MT	NL	NO	PL	P	SI	RO	SK	E	SV	UK																													
None Question 1		1		2		3		4		5		6		7		8		9		10		11		12		13		14		15		16		17		18		19		20		21		22		23		24		25		26		27		28		
Elements	A	B	BU	CY	CZ	DK	EE	FIN	F	D	EL	HU	IS	IRL	I	LV	LT	L	MT	NL	NO	PL	P	SI	RO	SK	E	SV	UK																													
None question 2		1		2		3		4		5		6		7		8		9		10		11		12		13		14		15		16		17		18		19		20		21		22		23		24		25		26		27		28		29
Elements	A	B	BU	CY	CZ	DK	EE	FIN	F	D	EL	HU	IS	IRL	I	LV	LT	L	MT	NL	NO	PL	P	SI	RO	SK	E	SV	UK																													
None Question 3		1		2		3		4		5		6		7		8		9		10		11		12		13		14		15		16		17		18		19		20		21		22		23		24		25		26		27		28		29



A.II. 3. GUIDELINE 6 - Managing The Two-Month Period :

48. Set out below is a summary of how CESR members have assessed themselves as applying guideline 6 which requires that:
- The host competent authority can ask clarification from the UCITS with regard to the documents and information submitted with the notification letter only in so far as this is necessary to check compliance with provisions referred to in Art. 44(1) and 45;
 - If the host competent authority is not satisfied despite the request for clarification, but can nevertheless assume that compliance with Art. 44(1) and 45 of the Directive from the UCITS can be achieved, then, before issuing a reasoned decision, it should inform the UCITS as early as possible and by duly motivated communication that there are convincing arguments to believe that the requirements to issue such a reasoned decision are fulfilled, unless the host State authority receives the requested information within the two-month period;
 - In the case mentioned under the second bullet point above, the expiry of the two-month period is suspended depending on the time necessary – in order to obtain the clarification requested in the written communication; and
 - After receiving the required information the host competent authority should finalise the checking of the marketing arrangements in the remaining time that was left of the two month period.
49. There were 6 questions asked in relation to this guideline and the benchmarks for the assessment were:
50. **Full application of guideline 6 requires that all of the following 6 requirements are met:**
- That the host member authority has the power to ask for clarification from the UCITS in the two-month period with regard to the documents and information submitted with the notification letter, in order to check if the marketing of units would comply with the provisions referred to in Art. 44(1) and Art. 45 of the Directive;
 - That clarification from the UCITS for purposes other than the checking of whether or not the marketing of units would comply with the provisions referred to in Art. 44(1) and Art. 45 of the Directive **is not** sought;

- That, despite a request for clarification, the host member authority is not satisfied that the applicant complies with Art. 44(1) and Art. 45 of the Directive, but it can nevertheless assume that there is a realistic prospect that such compliance can be achieved from the applicant's side without the need for a reasoned decision; that it applies the graduated approach set out in Guideline 6;
- That the host member authority informs the UCITS as soon as possible, in a written and duly motivated communication, that there are convincing arguments to believe that the requirements to issue a reasoned decision are fulfilled, unless the host member authority receives the required information within the two-month period;
- That such communication suspends the expiry of the two-month period; and
- That the remaining part of the two-month period starts running again at the date of receipt of the requested clarification.

51. Partial application of guideline 6 requires that all of the following 3 requirements are met:

- That the host member authority has the power to ask for clarification from the UCITS in the two-month period with regard to the documents and information submitted with the notification letter, in order to check if the marketing of units would comply with the provisions referred to in Art. 44(1) and Art. 45 of the Directive;
- That clarification from the UCITS for purposes other than the checking of whether or not the marketing of units would comply with the provisions referred to in Art. 44(1) and Art. 45 of the Directive **is not** sought;
- That the host member authority informs the UCITS as soon as possible, in a written and duly motivated communication, that there are convincing arguments to believe that the requirements to issue a reasoned decision are fulfilled, unless the host member authority receives the required information within the two-month period.

52. Non application of the guideline means that any one of the following applies:

- That the host member authority **does not have** the power to ask for clarification from the UCITS in the two-month period with regard to the documents and information submitted with the notification letter, in order to check if the marketing of units would comply with the provisions referred to in Art. 44(1) and Art. 45 of the Directive;
- That the host member authority **does not** inform the UCITS as soon as possible, in a written and duly motivated communication, that there are convincing arguments to believe that the requirements to issue a reasoned decision are fulfilled, unless the host member authority receives the required information within the two-month period.

What the self assessments of guideline 6 show

53. The self-assessments in relation to guidelines 6 show that **19** CESR members fully apply guideline 6 as follows:
- Austria, Belgium, Cyprus, Denmark, Ireland, France, Finland, Germany, Greece, Italy, Luxembourg, Malta, Netherlands, Norway, Portugal, Romania, Slovenia, Spain and Sweden.
54. The self-assessments in relation to guidelines 6 show that **8** CESR members partially apply this guideline in relation which, no one member falls into this category because they only meet the criteria set out in the partial benchmark, but for the following reasons:
- In the United Kingdom, if clarification of the notification is sought from the UCITS, the remaining part of the two-month period does not start running again at the date of receipt of the requested clarification, in addition the following members:
 - In Bulgaria, Czech Republic, Estonia and Hungary if they inform the UCITS as soon as possible, in a written and duly motivated communication, that there are convincing arguments to believe that the requirements to issue a reasoned decision are fulfilled, unless they receive the required information within the two-month period, such communication **does not** suspend the expiry of the two-month period.
 - Of this sub-group of members, in the Czech Republic, and Bulgaria the graduated approach set out in guideline 6 does not apply in the relevant circumstances; and
 - In Estonia, Clarification from the UCITS for reasons other than ascertaining whether or not the marketing arrangements of the UCITS complies with Articles 44(1) and 45 of the Directive apply are sought. In addition, the following **2** members have been classified as partially applying guideline 6 because they also classified themselves as doing this: Lithuania, and Iceland.
55. The self-assessments of guideline 6 show that the following **2** members: Latvia, and Slovakia¹ do not apply guideline 6 because they **do not** inform the UCITS as soon as possible, in a written and duly motivated communication, that there are convincing arguments to believe that the requirements to issue a reasoned decision are fulfilled, unless the host member authority receives the required information within the two-month period.
56. In addition, the self-assessments of this guideline show that Poland does not apply this guideline, because although it does inform the UCITS if there are problems with the notification and the supporting documentation in order not to have to raise objections to the marketing of the UCITS, they are not able to extend the 2 month period and as such can not apply the graduated approach.


¹ Note that Slovakia will be changing this within the next 2 months.





THE COMMITTEE OF EUROPEAN SECURITIES REGULATORS













































































































Guideline 6 : Summary of self assessments

KEY

Answer to
question is no


Answer to
question is not
applicable


Answer to
question is
Yes


Elements	A	B	BU	CY	CZ	DK	EE	FIN	F	D	EL	HU	IS	IRL	I	LV	LT	L	MT	NL	NO	PL	P	SI	RO	SK	E	SV	UK
None Question 1.a)	 1	 2	 3	 4	 5	 6	 7	 8	 9	 10	 11	 12	 13	 14	 15	 16	 17	 18	 19	 20	21	22	23	24	25	26	27	28	29
None Question 1.b)	 1	 2	 3	 4	 5	 6	 7	 8	 9	 10	 11	 12	 13	 14	 15	 16	 17	 18	 19	 20	21	22	23	24	25	26	27	28	29
Elements	A	B	BU	CY	CZ	DK	EE	FIN	F	D	EL	HU	IS	IRL	I	LV	LT	L	MT	NL	NO	PL	P	SI	RO	SK	E	SV	UK
None Question 2.a)	 1	 2	 3	 4	 5	 6	 7	 8	 9	 10	 11	 12	 13	 14	 15	 16	 17	 18	 19	 20	21	22	23	24	25	26	27	28	
None Question 2.b)	 1	 2	 3	 4	 5	 6	 7	 8	 9	 10	 11	 12	 13	 14	 15	 16	 17	 18	 19	 20	21	22	23	24	25	26	27	28	
Elements	A	B	BU	CY	CZ	DK	EE	FIN	F	D	EL	HU	IS	IRL	I	LV	LT	L	MT	NL	NO	PL	P	SI	RO	SK	E	SV	UK
None Question 3	 1	 2	 3	 4	 5	 6	 7	 8	 9	 10	 11	 12	 13	 14	 15	 16	 17	 18	 19	 20	21	22	23	24	25	26	27	28	
Elements	A	B	BU	CY	CZ	DK	EE	FIN	F	D	EL	HU	IS	IRL	I	LV	LT	L	MT	NL	NO	PL	P	SI	RO	SK	E	SV	UK
None Question 4	 1	 2	 3	 4	 5	 6	 7	 8	 9	 10	 11	 12	 13	 14	 15	 16	 17	 18	 19	 20	21	22	23	24	25	26	27	28	29



A.III. CERTIFICATION OF THE DOCUMENTS- GUIDELINE 7

57. This section of the report sets out a summary of how CESR members have assessed themselves as applying guidelines 7 which requires that:
- The UCITS should provide to the host competent authority the latest versions of the documents approved by or filed with the home competent authority;
 - The UCITS should be able to rely on self-certification to testify that the documents submitted are the latest version as required under the bullet point above; and
 - The host competent authority should not seek a certification from the home competent authority on the documents attached to the notification letter.
58. There were 3 questions asked in relation to this guideline and the benchmarks for the assessment were:
59. **Full application of guideline 7 requires that all of the following 3 requirements are met**
- That the host competent authority requires that the documents submitted to it as an attachment to the notification letter (see Annex II of the Guidelines) are always the latest versions of the documents as approved by or filed with the home State authority;
 - That the host competent authority accepts a self-certification by the notifying UCITS (or a third person empowered by written mandate to act on behalf of the notifying UCITS) to attest that the notification documents are the latest versions of the documents as approved by or filed with the home State authority; and
 - That the host competent authority does not require a certification of the notification documents by the home State.
60. **Partial application of guideline 7 requires that all of the following 2 requirements are met:**
- That the host competent authority requires that the documents submitted to it as an attachment to the notification letter (see Annex II of the Guidelines) are always the latest versions of the documents as approved by or filed with the home State authority; and

- That the host competent authority does not require a certification of the notification documents by the home State.

61. Non application of the guideline 7 means that any one of the following applies:

- That the host competent authority **does not** require that the documents submitted to it as an attachment to the notification letter (see Annex II of the Guidelines) are always the latest versions of the documents as approved by or filed with the home State authority; or
- That the host competent authority **does not** accept a self-certification by the notifying UCITS (or a third person empowered by written mandate to act on behalf of the notifying UCITS) to attest that the notification documents are the latest versions of the documents as approved by or filed with the home State authority; or
- That the host competent authority **does** require a certification of the notification documents by the home State, and **does not** accept that the use of the Hague-Apostille¹ for certification of the notification documents is not required.

What the self assessments of guideline 7 show

62. The self-assessments in relation to guidelines 7 show that 24 CESR members fully apply guideline 7 as follows:

- Austria, Belgium, Bulgaria, Czech republic, Cyprus, Denmark, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Slovenia, Romania, Slovakia, Sweden and the United Kingdom.

63. Only partial application of guideline 7 is carried out by 1 member Spain because it does not accept in the initial notification, that self-certification by the notifying UCITS (or a third person empowered by written mandate to act on behalf of the notifying UCITS) to attest that the notification documents are the latest versions of the documents as approved by or filed with the home State authority. Spain accepts self-certification for updates.

64. The following 4 members do not apply guideline 7 Estonia, Iceland, Latvia and Lithuania because they require self certification of the notification documents by the home competent authority and they do not accept the use of the Hague-Apostille for certification of the notification documents is not required.

¹ Para. 27 of the Explanatory text relating to Guideline 7 states that “CESR Members have also agreed not to require the use of the Hague-Apostille for certification of documents”.



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Guideline 7 : Summary of self assessments

KEY

Answer to question is no
✗

Answer to question is not applicable
○

Answer to question is Yes
✓

Elements	A	B	BU	CY	CZ	DK	EE	FIN	F	D	EL	HU	IS	IRL	I	LV	LT	L	MT	NL	NO	PL	P	SI	RO	SK	E	SV	UK
None Question 1	✓ 1	✓ 2	✓ 3	✓ 4	✓ 5	✓ 6	✓ 7	✓ 8	✓ 9	✓ 10	✓ 11	✓ 12	✓ 13	✓ 14	✓ 15	✓ 16	✓ 17	✓ 18	✓ 19	✓ 20	✓ 21	✓ 22	✓ 23	✓ 24	✓ 25	✓ 26	✓ 27	✓ 28	✓ 29
Elements	A	B	BU	CY	CZ	DK	EE	FIN	F	D	EL	HU	IS	IRL	I	LV	LT	L	MT	NL	NO	PL	P	SI	RO	SK	E	SV	UK
None Question 2	✓ 1	✓ 2	✓ 3	✓ 4	✓ 5	✓ 6	✓ 7	✓ 8	✓ 9	✓ 10	✓ 11	✓ 12	✓ 13	✓ 14	✓ 15	✓ 16	✓ 17	✓ 18	✓ 19	✓ 20	✓ 21	✓ 22	✓ 23	✓ 24	✓ 25	✗ 26	✓ 27	✓ 28	✓ 29
Elements	A	B	BU	CY	CZ	DK	EE	FIN	F	D	EL	HU	IS	IRL	I	LV	LT	L	MT	NL	NO	PL	P	SI	RO	SK	E	SV	UK
None Question 3	✗ 1	✗ 2	✗ 3	✗ 4	✗ 5	✗ 6	✓ 7	✗ 8	✗ 9	✗ 10	✗ 11	✗ 12	✓ 13	✗ 14	✗ 15	✓ 16	✓ 17	✗ 18	✗ 19	✗ 20	✗ 21	✗ 22	✗ 23	✗ 24	✗ 25	✗ 26	✗ 27	✗ 28	✗ 29



A. IV – TRANSLATION – Guideline 8

65. Set out below is a summary of how CESR members have assessed themselves as applying guideline 8 which requires that:
- The necessary documents should be translated into the official language or one of the official languages of the host State;
 - There is no need to provide sworn translations.¹
 - The host competent authority can approve also the use of another language than (one of) its official language(s);
 - The list of documents to be translated and the details of the linguistic regime applicable to the documents submitted by the UCITS should be publicly available on the host authority's web-site.
66. There were 4 questions asked in relation to this guideline and the benchmarks for the assessment were:
67. **Full application of guideline 8 requires that all of the following 4 requirements are met**
- That the host competent authority provides that the documents which have to be submitted by the UCITS to it must be sent in the original language and translated into one of the languages accepted by its State;
 - That the host competent authority does not require translations be sworn as true by a court, notary or similar public agent;
 - That the host competent authority ensures that information on the accepted languages is included in the overview of the non-harmonised national marketing rules and other specific national regulations relating to the application of the Directive and published on its website in accordance with Annex III of the Guidelines; and
 - That the host competent authority ensures that information on the documents which have to be translated is included in the overview of the non-harmonised national marketing

¹ Para. 31 of the Explanatory text relating to Guideline 8 states that "CESR recommends that Members do not require that translations are sworn as true by a court, notary or similar public agent".

rules and other specific national regulations relating to the application of the Directive and published on its website in accordance with Annex III of the Guidelines

68. Partial application of guideline 8 requires that all of the following 3 requirements are met:

- That the host competent authority provides that the documents which have to be submitted by the UCITS to it must be sent in the original language and translated into one of the languages accepted by its State;
- That the host competent authority ensures that information on the accepted languages is included in the overview of the non-harmonised national marketing rules and other specific national regulations relating to the application of the Directive and published on its website in accordance with Annex III of the Guidelines; and
- That the host competent authority ensures that information on the documents which have to be translated is included in the overview of the non-harmonised national marketing rules and other specific national regulations relating to the application of the Directive and published on its website in accordance with Annex III of the Guidelines.

69. Non application of the guideline 8 means that any one of the following applies:

- That the host competent authority **does not** provide that the documents which have to be submitted by the UCITS to it must be sent in the original language and translated into one of the languages accepted by its State;
- That the host competent authority **does not** ensure that information on the accepted languages is included in the overview of the non-harmonised national marketing rules and other specific national regulations relating to the application of the Directive and published on its website in accordance with Annex III of the Guidelines; and
- That the host competent authority **does not** ensure that information on the documents which have to be translated is included in the overview of the non-harmonised national marketing rules and other specific national regulations relating to the application of the Directive and published on its website in accordance with Annex III of the Guidelines.

What the self assessments of guideline 8 show

70. The self-assessments in relation to guidelines 8 show that 18 CESR members fully apply guideline 8 as follows:

- Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Luxembourg, Malta, Netherlands, Norway, Portugal, Sweden and the United Kingdom.


71. The following **10** members only **partially apply guideline 8**: Bulgaria, Czech Republic, Estonia, Iceland, Lithuania, Poland, Slovenia, Romania, Slovakia and Spain because they do require translations be sworn as true by a court, notary or similar public agent.
72. **One member**, Latvia, **does not apply** guideline 8 because although it provides that the documents which have to be submitted by the UCITS to it must be sent in the original language and translated into one of the languages accepted by it's State, it does not:
- a. ensure that information on the accepted languages is included in the overview of the non-harmonised national marketing rules and other specific national regulations relating to the application of the Directive and published on its website in accordance with Annex III of the Guidelines; and do not
 - b. ensure that information on the documents which have to be translated is included in the overview of the non-harmonised national marketing rules and other specific national regulations relating to the application of the Directive and published on its website in accordance with Annex III of the Guidelines





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Guideline 8 : Summary of self assessments

KEY

Answer to
question is no


Answer to
question is not
applicable


Answer to
question is
Yes


Elements	A	B	BU	CY	CZ	DK	EE	FIN	F	D	EL	HU	IS	IRL	I	LV	LT	L	MT	NL	NO	PL	P	SI	RO	SK	E	SV	UK
None Question 1	 1	 2	 3	 4	 5	 6	 7	 8	 9	 10	 11	 12	 13	 14	 15	 16	 17	 18	 19	 20	 21	 22	23	24	25	26	27	28	29
Elements	A	B	BU	CY	CZ	DK	EE	FIN	F	D	EL	HU	IS	IRL	I	LV	LT	L	MT	NL	NO	PL	P	SI	RO	SK	E	SV	UK
None Question 2	 1	 2	 3	 4	 5	 6	 7	 8	 9	 10	 11	 12	 13	 14	 15	 16	 17	 18	 19	 20	 21	 22	23	24	25	26	27	28	29
Elements	A	B	BU	CY	CZ	DK	EE	FIN	F	D	EL	HU	IS	IRL	I	LV	LT	L	MT	NL	NO	PL	P	SI	RO	SK	E	SV	UK
None Question 4.a)	 1	 2	 3	 4	 5	 6	 7	 8	 9	 10	 11	 12	 13	 14	 15	 16	 17	 18	 19	 20	 21	 22	23	24	25	26	27	28	29
None Question 4.b)	 1	 2	 3	 4	 5	 6	 7	 8	 9	 10	 11	 12	 13	 14	 15	 16	 17	 18	 19	 20	 21	 22	23	24	25	26	27	28	29



A.V UMBRELLA FUNDS –Guidelines 9 & 10.

Guideline 9

73. Set out below is a summary of how CESR members have assessed themselves as applying guideline 9 which requires that:
- In case of umbrella UCITS, notification should be requested only with reference to those sub-funds that the UCITS intends to market actively in the host State.
74. There was 1 question asked in relation to this guideline and the benchmarks for the assessment were:
75. **Full application of guideline 9 requires that the following requirement is met:**
- That the host competent authority accepts that, if a UCITS intends to market actively only part of the sub-funds of an umbrella UCITS in its territory, only those sub-funds have to be notified.
76. **Non application of guideline 9 means that the following applies:**
77. That the host competent authority **does not** accept that, if a UCITS intends to market actively only part of the sub-funds of an umbrella UCITS in its territory, only those sub-funds have to be notified.

What the self assessments of guideline 9 show


78. The self-assessments in relation to guidelines 9 show that:
- **All 29 CESR members fully apply guideline 9.**





THE COMMITTEE OF EUROPEAN SECURITIES REGULATORS



























Guideline 9 : Summary of self assessments

KEY

Answer to
question is no


Answer to
question is not
applicable


Answer to
question is
Yes


Elements	A	B	BU	CY	CZ	DK	EE	FIN	F	D	EL	HU	IS	IRL	I	LV	LT	L	MT	NL	NO	PL	P	SI	RO	SK	E	SV	UK
None Question 1	 1	 2	 3	 4	 5	 6		 7	 8	 9	 10	 11	 12	 13	 14	 15	 16	 17	 18	 19	 20	 21	 22	 23	 24	 25	 26	 27	 28

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Web site: www.cesr.eu



Guideline 10

79. Set out below is a summary of how CESR members have assessed themselves as applying guideline 10 which requires that:

- In case of umbrella UCITS the UCITS should be allowed to submit a single notification letter for the sub-funds notified simultaneously;
- Cross-reference to documents previously submitted to the host authority which have remained unchanged should be permitted;
- If the host Member State provides for the application of the two-month period in case of notification of sub-funds belonging to an umbrella fund already notified, then the application of the two-month period should be clearly indicated on its web-site;
- Normally, considering that most of the notification material is already known to the host competent authority, the two-month period should be shortened in accordance with Guideline 5;
- A single full prospectus should be provided in case of umbrella funds;
- In case of separate full prospectus for each sub-funds, UCITS must self-certify that the information on the marketing arrangements in the host State are the same in each prospectus or indicate where they are different.
- The umbrella UCITS must notify the host competent authority the new share classes added to sub-funds, and disclose the objective criteria (e.g. the amount of subscription, fees/expenses) on which they are based. The two-month period does not apply, the marketing of the new share classes being possible immediately after the notification.¹

80. There were 14 questions asked in relation to this guideline and the benchmarks for the assessment were:

81. **Full application of guideline 10 requires that all of the following 13 requirements are met**

- That the host competent authority accepts that all sub-funds are included in one notification letter if these notices are provided simultaneously;

¹ Pursuant to para. 35 of the Explanatory text relating to Guideline 10, "If new share classes are added to the sub-funds of an umbrella, the UCITS shall notify the host State authority the new share classes added to the sub-funds of an umbrella disclosing the objective criteria (e.g. the amount of subscription, fees/expenses) on which they are based and the two-month period shall not apply, i.e. the UCITS may begin marketing the share classes immediately provided that other reasons which prohibit marketing do not apply".

- That the simplification referred to in the first bullet point also applies to umbrella funds in the contractual and unit trust form;
- That the host competent authority accepts that cross-references concerning documents (for instance if the articles of incorporation of the overall umbrella have remained unchanged) can be made and therefore the documents have only to be submitted once;
- That the simplification referred to in the above bullet point also applies to umbrella funds in the contractual and unit trust form;
- That the host competent authority requires that, if new sub-funds are added to existing umbrella funds and these sub-funds are proposed to be marketed in its territory, the notification procedure applies; and that the two-month period applies;
- If the two-month period applies, that this requirement is included in the overview of national marketing rules published on the host competent authority's website as stated in Annex III of the Guidelines;
- If the two-month period applies that the host competent authority ensures in its day-to-day application activity that the two-month period is whenever possible shortened in accordance with Guideline 5;
- That the host competent authority accepts that only one full prospectus is necessary for the purposes of the notification of umbrella funds;
- That the host competent authority recommends that only one full prospectus is provided if the umbrella fund intends to notify its units within another Member State;
- If the notifying UCITS provide a separate full prospectus for each sub-fund, that the host competent authority accepts the UCITS' authorised directors (or a third person empowered by written mandate to act on behalf of the notifying UCITS) to self-certify that the information on the marketing arrangements in its State are the same in each prospectus or indicate where they are different;
- That the host competent authority ensures that, if new shares classes are added to the sub-funds of an umbrella, the new share classes added to the umbrella sub-funds are notified by the UCITS to it;
- That when notification of new share classes are made to the host competent authority, that the host competent authority provides that the UCITS must disclose the objective criteria (e.g. the amount of subscription, fees/expenses) on which the new share classes are based; and
- That the host competent authority accepts that the two-month period shall not apply, i.e. the UCITS may begin marketing the share classes immediately provided that other reasons which prohibit marketing do not apply.

82. Partial application of guideline 10 requires that all of the following 9 requirements are met:

- That the host competent authority accepts that all sub-funds are included in one notification letter if these notices are provided simultaneously;
- That the simplification referred to in the first bullet point also applies to umbrella funds in the contractual and unit trust form;
- That the host competent authority accepts that cross-references concerning documents (for instance if the articles of incorporation of the overall umbrella have remained unchanged) can be made and therefore the documents have only to be submitted once;
- That the simplification referred to in the above bullet point also applies to umbrella funds in the contractual and unit trust form;
- That the host competent authority accepts that only one full prospectus is necessary for the purposes of the notification of umbrella funds;
- That the host competent authority recommends that only one full prospectus is provided if the umbrella-fund intends to notify its units within another Member State;
- That the host competent authority ensures that, if new shares classes are added to the sub-funds of an umbrella, the new share classes added to the umbrella sub-funds are notified by the UCITS to it;
- That the host competent authority accepts that the two-month period shall not apply, i.e. the UCITS may begin marketing the share classes immediately provided that other reasons which prohibit marketing do not apply; and
- That if the host competent authority applies the two-month period to the notification procedure of new sub-funds that are added to existing umbrella funds, that this requirement is included in the overview of national marketing rules published on the host competent authority's website as stated in Annex III of the Guidelines

83. Non application of guideline 10 means that any one of the following applies:

- That the host competent authority **does not** accept that all sub-funds are included in one notification letter if these notices are provided simultaneously;
- That the simplification referred to in the first bullet point **does not** also apply to umbrella funds in the contractual and unit trust form;
- That the host competent authority **does not** accept that cross-references concerning documents (for instance if the articles of incorporation of the overall umbrella have remained unchanged) can be made and therefore the documents have only to be submitted once;

- That the simplification referred to in the above bullet point **does not** also apply to umbrella funds in the contractual and unit trust form;
- That the host competent authority **does not** accept that only one full prospectus is necessary for the purposes of the notification of umbrella funds;
- That the host competent authority **does not** recommend that only one full prospectus is provided if the umbrella-fund intends to notify its units within another Member State;
- That the host competent authority **does not** ensure that, if new shares classes are added to the sub-funds of an umbrella, the new share classes added to the umbrella sub-funds are notified by the UCITS to it; or
- That the host competent authority **does not** accept that the two-month period shall not apply, i.e. the UCITS may begin marketing the share classes immediately provided that other reasons which prohibit marketing do not apply.

What the self assessments of guideline 10 show

84. The self-assessments in relation to guideline 10 show that in some CESR members, there is no recognition of Umbrella funds and as such there is no national legislation providing for them. As such, some members gave a negative answer to some of the questions on the basis of the fact that they did not have any national legislation, as opposed to how they treat incoming Umbrella funds, and the summary below sets out the position in relation to how incoming Umbrella funds are treated as opposed to whether or not Umbrella funds are recognised at a national level.
85. The self-assessments in relation to guideline 10 show that **18 CESR members fully apply guideline 10** as follows:
- Austria, Bulgaria, Belgium, Cyprus, Estonia, France, Finland, Germany, Greece, Hungary, Italy, Lithuania, Luxembourg, Malta, Norway, Romania, Spain and Portugal.
86. 7 members only **partially apply** guideline 10 as follows:
- Poland because if the two-month period applies it does not ensure in its day-to-day application activity that the two-month period is whenever possible shortened in accordance with Guideline 5;
 - United Kingdom because in addition, it does not require that the 2 month period applies when new sub-funds are added to existing umbrella funds and these sub-funds are proposed to be marketed in its territory;
 - Sweden – because when notification of new share classes are made to the host competent authority, it **does not** provides that the UCITS must disclose the objective criteria (e.g. the amount of subscription, fees/expenses) on which the new share classes are based. This is because Sweden does not register the different share classes of

a UCTIS in the official records of the Finansinspektionen, only the different sub-funds are registered;

- Latvia, Denmark Iceland because – although they do apply the 2 month period when new sub funds are added to existing umbrella funds, they do not include this requirement in the overview of national marketing rules published on their website as stated in Annex III of the Guidelines.
- Ireland because the formal notification procedure is not applied to additional sub-funds of UCTIS.
- .

87. 4 Members have self assessed themselves as **not applying** guideline 10 for the following reasons:

- Slovakia and the Czech republic because they **do not** ensure that, if new shares classes are added to the sub-funds of an umbrella, the new share classes added to the umbrella sub-funds are notified by the UCITS to it. This is because the concept of share classes is not recognised by Slovakian law and as such the are not treated as different units of UCITS and no application procedure is applied when new share classes are added¹.
- Slovenia and the Netherlands because they do not **do not** accept that the two-month period shall not apply, i.e. the UCITS may begin marketing the share classes immediately provided that other reasons which prohibit marketing do not apply.

¹ Note that for Slovakia, this will be changed within the next 2 months.



KEY

Answer to question is Not applicable  Answer to question is Yes 

Elements	A	B	BU	CY	CZ	DK	EE	FIN	F	D	EL	HU	IS	IRL	I	LV	LT	L	MT	NL	NO	PL	P	SI	RO	SK	E	SV	UK																														
None Question 1.a)		1		2		3		4		5		6		7		8		9		10		11		12		13		14		15		16		17		18		19		20		21		22		23		24		25		26		27		28		29	
None Question 1.b)		1		2		3		4		5		6		7		8		9		10		11		12		13		14		15		16		17		18		19		20		21		22		23		24		25		26		27		28		29	
Elements	A	B	BU	CY	CZ	DK	EE	FIN	F	D	EL	HU	IS	IRL	I	LV	LT	L	MT	NL	NO	PL	P	SI	RO	SK	E	SV	UK																														
None Question 2.a)		1		2		3		4		5		6		7		8		9		10		11		12		13		14		15		16		17		18		19		20		21		22		23		24		25		26		27		28		29	
None Question 2.b)		1		2		3		4		5		6		7		8		9		10		11		12		13		14		15		16		17		18		19		20		21		22		23		24		25		26		27		28		29	
Elements	A	B	BU	CY	CZ	DK	EE	FIN	F	D	EL	HU	IS	IRL	I	LV	LT	L	MT	NL	NO	PL	P	SI	RO	SK	E	SV	UK																														
None Question 3.a)		1		2		3		4		5		6		7		8		9		10		11		12		13		14		15		16		17		18		19		20		21		22		23		24		25		26		27		28		29	
None Question 3.b)		1		2		3		4		5		6		7		8		9		10		11		12		13		14		15		16		17		18		19		20		21		22		23		24		25		26		27		28		29	
None Question 3.c)		1		2		3		4		5		6		7		8		9		10		11		12		13		14		15		16		17		18		19		20		21		22		23		24		25		26		27		28		29	
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None Question 4		1		2		3		4		5		6		7		8		9		10		11		12		13		14		15		16		17		18		19		20		21		22		23		24		25		26		27		28		29	
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None Question 5.a)		1		2		3		4		5		6		7		8		9		10		11		12		13		14		15		16		17		18			19		20		21		22		23		24		25		26		27		28		29
None Question 5.b)		1		2		3		4		5		6		7		8		9		10		11		12		13		14		15		16		17		18		19		20		21		22		23		24		25		26		27		28		29	
Elements	A	B	BU	CY	CZ	DK	EE	FIN	F	D	EL	HU	IS	IRL	I	LV	LT	L	MT	NL	NO	PL	P	SI	RO	SK	E	SV	UK																														
None Question 6		1		2		3		4		5		6		7		8		9		10		11		12		13		14		15		16		17		18		19		20		21		22		23		24		25		26		27		28		29	
Elements	A	B	BU	CY	CZ	DK	EE	FIN	F	D	EL	HU	IS	IRL	I	LV	LT	L	MT	NL	NO	PL	P	SI	RO	SK	E	SV	UK																														
None Question 7.a)		1		2		3		4		5		6		7		8		9		10		11		12		13		14		15		16		17		18		19		20		21		22		23		24		25		26		27		28		29	
None Question 7.b)		1		2		3		4		5		6		7		8		9		10		11		12		13		14		15		16		17		18		19		20		21		22		23		24		25		26		27		28		29	
None Question 7.c)		1		2		3		4		5		6		7		8		9		10		11		12		13		14		15		16		17		18		19		20		21		22		23		24		25		26		27		28		29	

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Web site: www.cesr.eu



B. Content of the file – Guideline 11

88. Set out below is a summary of how CESR members have assessed themselves as applying guideline 11 which requires that:
- The UCITS should provide to the host competent authority the following documents:
 - Model attestation of the home country authority in original or a self-certified copy by the UCITS drafted in the official language of the home competent authority and accompanied by a translation in English, except where the home and host authorities have the same language;
 - Model notification letter;
 - Latest up-to-date fund rules or instruments of incorporation, unless included in the full prospectus;
 - Latest up-to-date full and simplified prospectuses;
 - Latest published annual report and any subsequent half-yearly report;
 - Details of the arrangements made for the marketing of units in the host Member State.
 - Without prejudice to the documents due under Art. 44(1) and 45 of the Directive and Guidelines (cf Annexes III and IV), the host competent authority should not require additional documents with respect to the above list;
 - In case of umbrella funds with a large number of sub-funds, a single annual and half-yearly report dealing with all sub-funds of the umbrella fund should be provided;
 - In case the UCITS submits separate annual and half-yearly reports for each sub-fund, then it should self-certify that the information on the marketing arrangements, if any, in the host State are the same in each annual and half-yearly report or indicate where they are different;
 - The UCITS should be allowed to provide self-certification as to all the documents submitted.
89. There were 9 questions asked in relation to this guideline and the benchmarks for the assessment were:
90. **Full application of guideline 11 requires that all of the following 9 requirements are met:**

- That the host competent authority provides that the UCITS proposing to market its units in its territory must first inform it and submit the following information and documents:
 - ☐ (i) the valid original attestation granted by the competent home Member State authority, to the effect that the UCITS fulfils the conditions imposed by the Directive (cf. Annex 1 with the model attestation), or, as alternative
 - ☐ (ii) a copy of the original attestation, accompanied by a self-certification by the UCITS' authorised directors (or a third person empowered by written mandate to act on behalf of the notifying UCITS) that the copy is a true copy of the valid original in their possession and that it is the latest version issued by the home State authority.
- That the host competent authority provides that the UCITS attestation does not have to be translated into the (or one of its) official languages, but that instead the original attestation includes an English version to be provided by the UCITS, in those cases where the host competent authority does not accept the official language of the home Member State;
- That the host competent authority provides that the UCITS proposing to market its units in its territory must first inform the host competent authority and submit the following further information and documents:
 - (i) a notification letter drafted in accordance with Annex II of the Guidelines;
 - (ii) its latest up-to-date fund rules or instruments of incorporation;
 - (iii) its latest up-to-date full prospectuses, containing all information as provided for by Art. 28(2) including Schedule A of Annex I;
 - (iv) its latest up-to-date simplified prospectuses, containing all information as provided for by Art. 28(3) including Schedule C of Annex I of the Directive, and as endorsed by the Commission's Recommendation on some contents of the simplified prospectus;
 - (v) its latest published annual report;
 - (vi) any subsequent half-yearly report; and
 - (vii) details of the arrangements made for the marketing of units in the host competent authority's territory (cf. Annex III).
- That when the competent authority is requested to attest that a UCITS fulfils the conditions imposed by the Directive, it uses the model attestation set out in Annex 1 of the Guidelines;
- That the host competent authority accepts that the latest up-to-date fund rules or instruments of incorporation (and any amendments thereto) do not need to be submitted separately, if they are included in the full prospectus and the latter is indicated by the notifying UCITS (or a third person empowered by written mandate to act on behalf of the notifying UCITS);
- That the host competent authority ensures that, without prejudice to the documents and information due under Art. 44(1) and Art. 45 of the Directive or those aimed at

speeding up the notification process, no documents and information other than those mentioned in Guideline 11 are to be submitted by the notifying UCITS;

- That the host competent authority recommends that only one annual and half-yearly report dealing with all sub-funds is submitted if the umbrella-fund intends to notify its units within another Member State;
- If the notifying UCITS provide a separate annual and half-yearly report for each sub-fund, that the host competent authority accepts the UCITS' authorised directors (or a third person empowered by written mandate to act on behalf of the notifying UCITS) to self-certify that the information on the marketing arrangements, if any, in its State are the same in each annual and half-yearly report or indicate where they are different;
- That the host competent authority accepts that the UCITS provides self-certification as to all the documents submitted.

91. Partial application of guideline 11 requires that all of the following 8 requirements are met:

- That the host competent authority provides that the UCITS proposing to market its units in its territory must first inform it and submit the following information and documents:
 - ☐ (i) the valid original attestation granted by the competent home Member State authority, to the effect that the UCITS fulfils the conditions imposed by the Directive (cf. Annex 1 with the model attestation), or, as alternative
 - ☐ (ii) a copy of the original attestation, accompanied by a self-certification by the UCITS' authorised directors (or a third person empowered by written mandate to act on behalf of the notifying UCITS) that the copy is a true copy of the valid original in their possession and that it is the latest version issued by the home State authority.
- That the host competent authority provides that the UCITS attestation does not have to be translated into the (or one of its) official languages, but that instead the original attestation includes an English version to be provided by the UCITS, in those cases where the host competent authority does not accept the official language of the home Member State;
- That the host competent authority provides that the UCITS proposing to market its units in its territory must first inform the host competent authority and submit the following further information and documents:
 - (i) a notification letter drafted in accordance with Annex II of the Guidelines;
 - (ii) its latest up-to-date fund rules or instruments of incorporation;
 - (iii) its latest up-to-date full prospectuses, containing all information as provided for by Art. 28(2) including Schedule A of Annex I;

- (iv) its latest up-to-date simplified prospectuses, containing all information as provided for by Art. 28(3) including Schedule C of Annex I of the Directive, and as endorsed by the Commission's Recommendation on some contents of the simplified prospectus;
 - (v) its latest published annual report;
 - (vi) any subsequent half-yearly report; and
 - (vii) details of the arrangements made for the marketing of units in the host competent authority's territory (cf. Annex III).
- That when the competent authority is requested to attest that a UCITS fulfils the conditions imposed by the Directive, it uses the model attestation set out in Annex 1 of the Guidelines;
 - That the host competent authority ensures that, without prejudice to the documents and information due under Art. 44(1) and Art. 45 of the Directive or those aimed at speeding up the notification process, no documents and information other than those mentioned in Guideline 11 are to be submitted by the notifying UCITS;
 - That the host competent authority recommends that only one annual and half-yearly report dealing with all sub-funds is submitted if the umbrella-fund intends to notify its units within another Member State;
 - That the host competent authority accepts that the UCITS provides self-certification as to all the documents submitted; and
 - If the notifying UCITS provide a separate annual and half-yearly report for each sub-fund, that the host competent authority **does not** accept the UCITS' authorised directors (or a third person empowered by written mandate to act on behalf of the notifying UCITS) to self-certify that the information on the marketing arrangements, if any, in its State are the same in each annual and half-yearly report or indicate where they are different.

92. Non application of guideline 11 means that any one of the following applies:

- That the host competent authority **does not** provide that the UCITS proposing to market its units in its territory must first inform it and submit the following information and documents:
 - ☐ (i) the valid original attestation granted by the competent home Member State authority, to the effect that the UCITS fulfils the conditions imposed by the Directive (cf. Annex 1 with the model attestation), or, as alternative
 - ☐ (ii) a copy of the original attestation, accompanied by a self-certification by the UCITS' authorised directors (or a third person empowered by written mandate to act on behalf of the notifying UCITS) that the copy is a true copy of the valid original in their possession and that it is the latest version issued by the home State authority.

- That the host competent authority **does not** provide that the UCITS attestation does not have to be translated into the (or one of its) official languages, but that instead the original attestation includes an English version to be provided by the UCITS, in those cases where the host competent authority does not accept the official language of the home Member State;
- That the host competent authority **does not** provide that the UCITS proposing to market its units in its territory must first inform the host competent authority and submit the following further information and documents:
 - (i) a notification letter drafted in accordance with Annex II of the Guidelines;
 - (ii) its latest up-to-date fund rules or instruments of incorporation;
 - (iii) its latest up-to-date full prospectuses, containing all information as provided for by Art. 28(2) including Schedule A of Annex I;
 - (iv) its latest up-to-date simplified prospectuses, containing all information as provided for by Art. 28(3) including Schedule C of Annex I of the Directive, and as endorsed by the Commission's Recommendation on some contents of the simplified prospectus;
 - (v) its latest published annual report;
 - (vi) any subsequent half-yearly report; and
 - (vii) details of the arrangements made for the marketing of units in the host competent authority's territory (cf. Annex III).
- That when the competent authority is requested to attest that a UCITS fulfils the conditions imposed by the Directive, **it does not** use the model attestation set out in Annex 1 of the Guidelines;
- That the host¹ competent authority **does not** recommend that only one annual and half-yearly report dealing with all sub-funds is submitted if the umbrella-fund intends to notify its units within another Member State;
- That the host competent authority **does not** ensure that, without prejudice to the documents and information due under Art. 44(1) and Art. 45 of the Directive or those aimed at speeding up the notification process, no documents and information other than those mentioned in Guideline 11 are to be submitted by the notifying UCITS; or
- That the host competent authority **does not** accept that the UCITS provides self-certification as to all the documents submitted.

What the self assessments of guideline 11 show

93. The self-assessments in relation to guidelines 11 show that **21** CESR members **fully apply guideline 11** as follows:

¹ In relation to this guideline, as for guideline 10, those members who do not at a national level recognise Umbrella funds, are not in a position to recommend anything, and as such a negative answer on this basis is taken as applying this aspect of the guideline provided that one annual and half-yearly report dealing with all the sub-funds is accepted.

- Austria, Bulgaria, Cyprus, Denmark, Estonia, France, Finland, Germany, Hungary, Iceland, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Spain, Sweden and the United Kingdom.

94. **One member** – Italy **partially applies** the guideline because if the notifying UCITS provide a separate annual and half-yearly report for each sub-fund, it **does not** accept the UCITS' authorised directors (or a third person empowered by written mandate to act on behalf of the notifying UCITS) to self-certify that the information on the marketing arrangements, if any, in its State are the same in each annual and half-yearly report or indicate where they are different.

95. The self assessments show that **7** members have assessed themselves as **not applying** guideline 11 for the following reasons:

- Belgium, Ireland, Slovenia and Slovakia¹ because they **do not** recommend that only one annual and half-yearly report dealing with all sub-funds is submitted if the umbrella-fund intends to notify its units within another Member State;
- In addition to this:
 - a. Czech Republic **does not** accept that the UCITS provides self-certification as to all the documents submitted;
 - b. Greece **does not** provide that the UCITS attestation does not have to be translated into the (or one of its) official languages, but that instead the original attestation includes an English version to be provided by the UCITS, in those cases where the host competent authority does not accept the official language of the home Member State;
- Latvia **does not** provide that the UCITS proposing to market its units in its territory must first inform the host competent authority and submit the following further information and documents:
 - (i) a notification letter drafted in accordance with Annex II of the Guidelines;
 - (ii) its latest up-to-date fund rules or instruments of incorporation;
 - (iii) its latest up-to-date full prospectuses, containing all information as provided for by Art. 28(2) including Schedule A of Annex I;
 - (iv) its latest up-to-date simplified prospectuses, containing all information as provided for by Art. 28(3) including Schedule C of Annex I of the Directive, and as endorsed by the Commission's Recommendation on some contents of the simplified prospectus;
 - (v) its latest published annual report;
 - (vi) any subsequent half-yearly report; and
 - (vii) details of the arrangements made for the marketing of units in the host competent authority's territory (cf. Annex III).

¹ Note that Slovakia will be changing this within the next 2 months.



THE COMMITTEE OF EUROPEAN SECURITIES REGULATORS

Guideline 11 : Summary of self assessments

KEY

Answer to question is No ✖

Answer to question is not applicable ○

Answer to question is yes ✔

Elements	A	B	BU	CY	CZ	DK	EE	FIN	F	D	EL	HU	IS	IRL	I	LV	LT	L	MT	NL	NO	PL	P	SI	RO	SK	E	SV	UK																															
1.a-1)		1		2		3		4		5		6		7		8		9		10		11		12		13		14		15		16		17		18		19		20		21		22		23		24		25		26		27		28		29		
1.a-2)		1		2		3		4		5		6		7		8		9		10		11		12		13		14		15		16		17		18		19		20		21		22		23		24		25		26		27		28		29		
1.b)		1		2		3		4		5		6		7		8		9		10		11		12		13		14		15		16		17		18		19		20		21		22		23		24		25		26		27		28		29		
1.c-1)		1		2		3		4		5		6		7		8		9		10		11		12		13		14		15		16		17		18		19		20		21		22		23		24		25		26		27		28		29		
1.c-2)		1		2		3		4		5		6			7		8		9		10		11		12		13		14		15		16		17		18		19		20		21		22		23		24		25		26		27		28		29	
1.c-3)		1		2		3		4		5		6		7		8		9		10		11		12		13		14		15		16		17		18		19		20		21		22		23		24		25		26		27		28		29		
1.c-4)		1		2		3		4		5		6		7		8		9		10		11		12		13		14		15		16		17		18		19		20		21		22		23		24		25		26		27		28		29		
1.c-5)		1		2		3		4		5		6			7		8		9		10		11		12		13		14		15		16		17		18		19		20		21		22		23		24		25		26		27		28		29	
1.c-6)		1		2		3		4		5		6			7		8		9		10		11		12		13		14		15		16		17		18		19		20		21		22		23		24		25		26		27		28		29	
1.c-7)		1		2		3		4		5		6			7		8		9		10		11		12		13		14		15		16		17		18		19		20		21		22		23		24		25		26		27		28		29	
1.d)		1		2		3		4		5		6			7		8		9		10		11		12		13		14		15		16		17		18		19		20		21		22		23		24		25		26		27		28		29	
1.e)		1		2		3		4		5		6			7		8		9		10		11		12		13		14		15		16		17		18		19		20		21		22		23		24		25		26		27		28		29	
Elements	A	B	BU	CY	CZ	DK	EE	FIN	F	D	EL	HU	IS	IRL	I	LV	LT	L	MT	NL	NO	PL	P	SI	RO	SK	E	SV	UK																															
None Question 2		1		2		3		4		5		6		7		8		9		10		11		12		13		14		15		16		17		18		19		20		21		22		23		24		25		26		27		28		29		
Elements	A	B	BU	CY	CZ	DK	EE	FIN	F	D	EL	HU	IS	IRL	I	LV	LT	L	MT	NL	NO	PL	P	SI	RO	SK	E	SV	UK																															
None Question 3		1		2		3		4		5		6			7		8		9		10		11		12		13		14		15		16		17		18		19		20		21		22		23		24		25		26		27		28		29	
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None Question 4		1		2		3		4		5		6			7		8		9		10		11		12		13		14		15		16		17			18		19		20		21		22		23		24		25		26		27		28		29
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None Question 5		1		2		3		4		5		6			7		8		9		10		11		12		13		14		15		16		17		18		19		20		21		22		23		24		25		26		27		28		29	



C. Modifications and on-going process – Guideline 12

96. Set out below is a summary of how CESR members have assessed themselves as applying guideline 12 which requires that:
- Foreign UCITS must keep their documents and information up-to-date.
 - Any amendments to the fund rules or instruments of incorporation (which do not need to be submitted separately if they are included in the full prospectus; the latter must be indicated by the notifying UCITS or a third person empowered by written mandate to act on behalf of the notifying UCITS) or the addition of new share classes, the full and/or simplified prospectuses, or new prospectuses, if applicable, should be submitted to the host competent authority.
 - The latest published annual report and any subsequent half-yearly report should be submitted to the host competent authority;
 - Submission of the up-to-dated documents and information to the host authority is requested without delay after they have been made the first time available in the home Member State.
97. There were 4 questions asked in relation to this guideline and the benchmarks for the assessment were:
98. **Full application of guideline 12 requires that all of the following 4 requirements are met:**
- That the host competent authority requires that foreign UCITS keep their documents and information up-to-date;
 - In particular, that the host competent authority requires that e.g. the documents and information listed below are submitted by foreign UCITS to it:
 - (i) any amendments to the fund rules or instruments of incorporation;
 - (ii) the addition of new share classes;
 - (iii) any amendments to the full prospectus;
 - (iv) any amendments to the simplified prospectus;
 - (v) any new full prospectus;
 - (vi) any new simplified prospectus.
 - That the host competent authority requires that foreign UCITS provide it with the following documents:
 - (i) the latest published annual report;
 - (ii) any subsequent half-yearly report.

- That the host competent authority requires the documents and information mentioned in the three bullet points above be submitted by foreign UCITS to it, without delay after they have been made the first time available in the home Member State and without prejudice to the notification procedure for new sub-funds.

99. Partial application of guideline 12 requires that all of the following 2 requirements are met:

- That the host competent authority requires that foreign UCITS keep the following documents and information up-to-date:
 - (i) any amendments to the fund rules or instruments of incorporation;
 - (ii) the addition of new share classes;
 - (iii) any amendments to the full prospectus;
 - (iv) any amendments to the simplified prospectus;
 - (v) any new full prospectus;
 - (vi) any new simplified prospectus.
- That the host competent authority requires that these documents and information be submitted by foreign UCITS to it, without delay after they have been made the first time available in the home Member State and without prejudice to the notification procedure for new sub-funds.

100. Non application of the guideline means that any one of the following applies:

- That the host competent authority **does not** require that foreign UCITS keep the following documents and information up-to-date:
 - (i) any amendments to the fund rules or instruments of incorporation;
 - (ii) the addition of new share classes;
 - (iii) any amendments to the full prospectus;
 - (iv) any amendments to the simplified prospectus;
 - (v) any new full prospectus;
 - (vi) any new simplified prospectus.
- That the host competent authority **does not** require that these documents and information be submitted by foreign UCITS to it, without delay after they have been made the first time available in the home Member State and without prejudice to the notification procedure for new sub-funds.

What the self assessments of guideline 12 show

101. The self-assessments in relation to guidelines 12 shows that 22 CESR members fully apply guideline 12 as follows:



- Austria, Belgium, Bulgaria, Cyprus, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Luxembourg, Malta, Netherlands, Poland, Portugal, Slovenia, Romania and the United Kingdom.

102. The following 2 CESR members Norway¹ and Sweden² have only **partially applied** guideline 12 because they **do not** require that foreign UCITS provide them with the following documents:(i) the latest published annual report;(ii)any subsequent half-yearly report.

103. The following 5 members Czech Republic, Denmark, Lithuania, Slovakia, and Spain have **not applied** guideline 12 because they do not require that foreign UCITS keep the following documents and information up to date nor do they require that these documents and information be submitted to them without delay after they have been made the first time available in the home Member State and without prejudice to the notification procedure for new sub-funds:

- The Czech Republic: any amendments to the fund rules or instruments of incorporation, the addition of new share classes, any amendments to the full prospectus, any amendments to the simplified prospectus, any new full prospectus and any new simplified prospectus
- Spain: any amendments to the fund rules or instruments of incorporation, any amendments to the full prospectus. and any new full prospectus³;
- Slovakia : the addition of new share classes⁴ ;
- Lithuania: any new full prospectus;
- Denmark : any amendments to the simplified prospectus.

¹ In Norway's case, they expect to receive these documents and for them to be submitted to unit holders but do not actively control the submission of them to Kredittilsynet.

² In Sweden's case, although they do not require this, they have the power to ask for this information when they need it.


³ In Spain's case, they can ask for this information whenever they need it.


⁴ This is because the concept of share classes is not recognised by Slovakian law and as such they are not treated as different units of UCITS, but this will change within the next 2 months.




Guideline 12 : Summary of self assessments

KEY

Answer to question is no


Answer to question is not applicable


Answer to question is Yes


Elements	A	B	BU	CY	CZ	DK	EE	FIN	F	D	EL	HU	IS	IRL	I	LV	LT	L	MT	NL	NO	PL	P	SI	RO	SK	E	SV	UK																													
None Question 1		1		2		3	4		5		6		7		8	9		10		11		12		13		14		15		16		17		18		19		20		21		22		23		24		25		26		27		28		29		
Elements	A	B	BU	CY	CZ	DK	EE	FIN	F	D	EL	HU	IS	IRL	I	LV	LT	L	MT	NL	NO	PL	P	SI	RO	SK	E	SV	UK																													
None Question 2-1)		1		2		3	4		5		6			7		8		9		10		11		12		13		14		15		16		17		18		19		20		21		22		23		24		25		26		27		28		
None Question 2-2)		1		2		3	4		5		6			7		8		9		10		11		12		13		14		15		16		17		18		19		20		21		22		23		24		25		26		27		28		
None Question 2-3)		1		2		3	4		5		6			7		8		9		10		11		12		13		14		15		16		17		18		19		20		21		22		23		24		25		26		27		28		
None Question 2-4)		1		2		3	4		5		6			7		8		9		10		11		12		13		14		15		16		17		18		19		20		21		22		23		24		25		26		27		28		
None Question 2-5)		1		2		3	4		5		6			7		8		9		10		11		12		13		14		15		16		17		18		19		20		21		22		23		24		25		26		27		28		
None Question 2-6)		1		2		3	4		5		6			7		8		9		10		11		12		13		14		15		16		17		18		19		20		21		22		23		24		25		26		27		28		
Elements	A	B	BU	CY	CZ	DK	EE	FIN	F	D	EL	HU	IS	IRL	I	LV	LT	L	MT	NL	NO	PL	P	SI	RO	SK	E	SV	UK																													
None Question 3-1)		1		2		3	4		5		6			7		8		9		10		11		12		13		14		15		16		17		18		19		20		21		22		23		24		25		26		27		28		
None Question 3-2)		1		2		3	4		5		6			7		8		9		10		11		12		13		14		15		16		17		18		19		20		21		22		23		24		25		26		27		28		
Elements	A	B	BU	CY	CZ	DK	EE	FIN	F	D	EL	HU	IS	IRL	I	LV	LT	L	MT	NL	NO	PL	P	SI	RO	SK	E	SV	UK																													
None Question 4		1		2		3		4		5		6		7		8		9		10		11		12		13		14		15		16		17		18		19		20		21		22		23		24		25		26		27		28		29



D National marketing rules and other specific national regulations – Guideline 13.

104. Set out below is a summary of how CESR members have assessed themselves as applying guideline 13 which requires that:
- Each competent authority should publish on its web-site a standardised overview on the non-harmonised national provisions of its host State relating to the application of the Directive as set out in Annex III of CESR guidelines;
 - The information should be kept up to date;
 - The competent authority should inform CESR on the internet address where the information is available and it should keep CESR informed of any change to the Internet address.
105. There were 3 questions asked in relation to this guideline and the benchmarks for the assessment were:
106. **Full application of guideline 13 requires that all of the following 3 requirements are met:**
- That the competent authority publishes on its web-site a standardised overview on the non-harmonised national provisions of its host State relating to the application of the Directive as set out in Annex III of CESR guidelines;
 - That the competent authority ensures that the overview is kept up to date, by publishing any amendment or abolition of these provisions or the enactment of new provisions;
 - That the competent authority ensures that the submission of the details of the website on which the above mentioned overview is communicated to CESR.
107. **Partial application of guideline 13 requires that all of the following 2 requirements are met:**
- That the competent authority publishes on its web-site a standardised overview on the non-harmonised national provisions of its host State relating to the application of the Directive as set out in Annex III of CESR guidelines; and
 - That the competent authority does ensure that the overview is kept up to date, by publishing any amendment or abolition of these provisions or the enactment of new provisions.

108. Non application of the guideline means that any one of the following applies:

- That the competent authority **does not** publish on its web-site a standardised overview on the non-harmonised national provisions of its host State relating to the application of the Directive as set out in Annex III of CESR guidelines; or
- That the competent authority **does not** ensure that the overview is kept up to date, by publishing any amendment or abolition of these provisions or the enactment of new provisions.

What the self assessments of guideline 13 show




109. The self-assessments in relation to guidelines 13 shows that all **29** CESR members **fully** apply guideline 13.




















































































THE COMMITTEE OF EUROPEAN SECURITIES REGULATORS

Guideline 13 : Summary of self assessments



KEY

Answer to question is no 	Answer to question is not applicable 	Answer to question is Yes 
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Elements	A	B	BU	CY	CZ	DK	EE	FIN	F	D	EL	HU	IS	IRL	I	LV	LT	L	MT	NL	NO	PL	P	SI	RO	SK	E	SV	UK
None Question 1																													
Elements	A	B	BU	CY	CZ	DK	EE	FIN	F	D	EL	HU	IS	IRL	I	LV	LT	L	MT	NL	NO	PL	P	SI	RO	SK	E	SV	UK
None Question 2																													
Elements	A	B	BU	CY	CZ	DK	EE	FIN	F	D	EL	HU	IS	IRL	I	LV	LT	L	MT	NL	NO	PL	P	SI	RO	SK	E	SV	UK
None Question 3																													

SUMMARY SELF-ASSESSMENT DECEMBER 2007

KEY

Not applied 
 Partially applied 
 Fully applied 

GUIDELINES		AUT	BEL	BU	CYP	CZE	DK	EE	FIN	FRA	GER	GRE	HUN	ICE	IRL	ITA	LIT	LV	LUX	MAL	NED	NOR	POL	POR	SLV	RO	SLK	ESP	SWE	UK
	1	✓	✓	✓	✗	✓	✓	✓	✗	○	✗	✗	○	✓	✗	✓	○	✗	✓	✓	✓	✓	○	✓	✗	✓	✗	✓	✓	✗
	2	✓	✓	✓	✓	✓	✓	✗	✓	✓	✓	✓	✓	✗	✓	✓	✗	✓	✓	✓	✓	✓	✓	✓	✗	✓	✓	✓	✓	✓
	3	✓	✓	✓	✓	✗	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✗	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
	4	✓	✓	○	✓	✓	✓	✓	✓	✓	✓	✓	○	✓	✓	✓	✓	○	✓	✓	✓	✓	✓	✓	○	✓	○	✓	✓	✓
	5	✗	✓	✓	✓	✓	✓	✗	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✗	✓	✓	✓	✓	✓	✓	✗
	6	✓	✓	○	✓	○	✓	○	✓	✓	✓	✓	○	○	✓	✓	○	✗	✓	✓	✓	✓	✗	✓	✓	✓	✗	✓	✓	○
	7	✓	✓	✓	✓	✓	✓	✗	✓	✓	✓	✓	✓	✗	✓	✓	✗	✗	✓	✓	✓	✓	✓	✓	✓	✓	○	✓	✓	✓
	8	✓	✓	○	✓	○	✓	○	✓	✓	✓	✓	✓	○	✓	✓	○	✗	✓	✓	✓	✓	○	✓	○	○	○	○	✓	✓
	9	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
	10	✓	✓	✓	✓	✗	○	✓	✓	✓	✓	✓	✓	○	○	✓	✓	○	✓	✓	✗	✓	○	✓	✗	✓	✗	✓	○	○
	11	✓	✗	✓	✓	✗	✓	✓	✓	✓	✓	✗	✓	✓	✗	○	✓	✗	✓	✓	✓	✓	✓	✓	✗	✓	✗	✓	✓	✓
	12	✓	✓	✓	✓	✗	✗	✓	✓	✓	✓	✓	✓	✓	✓	✗	✓	✓	✓	✓	✓	○	✓	✓	✓	✓	✗	✗	○	✓
	13	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓



Overall benchmarks for the peer review of the guidelines

110. The second part of the exercise involves each member's self-assessment being assessed by its peers. This involves fully reviewing each member's answer to each question as well as the details of the implementing measure provided and asking additional questions where this is considered necessary.
111. Following the completion of this detailed review, the application by each member of each guideline is established with reference to the benchmarks, and the member's overall assessment of their application of the guidelines as a whole is established with reference to the overall benchmarks that have been established for this exercise.
112. The overall benchmarks for a member's application of the guidelines as a whole were set on the basis of what it is as a minimum that CESR considered CESR members should be doing in order to be able to be considered as applying the spirit of the guidelines. As the overall objective of the guidelines is to simplify the notification procedure and taking into account the five agreed areas of improvement discussed above, in order to establish the overall benchmark, CESR has divided the guidelines into two groups, Key Guidelines and the non Key Guidelines as follows :
- Key Guidelines: 1,2,4,5,7 ,9 &10 ;
 - Non Key Guidelines: 3,6,8,11,12,13.
113. The distinction between these two groups of guidelines was established on the basis that of the 13 guidelines, the Key guidelines are considered to be the most fundamental in terms of simplifying the notification procedure, and are regarded as on the one hand demonstrating the willingness by the CESR member to simplify the notification process and on the other hand are those guidelines which simplify and allow UCITS business to be conducted on a cross border basis (for further explanation of this, please see below).
114. Having distinguished between the two sets of guidelines, CESR considered how to rank members application of the guidelines in order to on the one hand reflect the importance of the key guidelines and weight them accordingly, and on the other hand ensure that the overall assessment correctly reflected a members overall application of all the guidelines.
115. In order to do this, the following was established:

For the Key Guidelines (1,2,4,5,7,9 &10):

- Full application of all Key guidelines equates to a maximum rating of the key guidelines of 70% application requiring full application of guidelines 1,2,4 5,7, 9 & 10. –with an individual rating of 10% application per key guideline that is fully applied).
- Partial application of any one of the following key guidelines 1,7 or 10 results in an individual rating of 3 % per each of these key guidelines that is partially applied guideline .
- Partial application of any one of the following key guidelines 2,4,5,9 results in a rating of 1% per guideline each of these key guidelines that is partially applied.
- Non application of any one of the non key guidelines does not result in a nil rating

Non Key Guidelines (3,6,8,11,12,13)

- Full application of all non key guidelines equates to a maximum rating for the non key guidelines of 30% application (with an individual rating of 5% application per non key guideline that is fully applied).
- Partial application of all non key guidelines equates to a maximum rating the non key guidelines of 18% application (with an individual rating of 3% application per non key guideline that is partially applied).
- Non application of any one of the non key guidelines does not result in a nil rating.

116. The overall assessment rating for each member is then calculated by adding the total rating achieved for both the key and non key guidelines.

Further explanation of the Key and non key guidelines:

Key guidelines:

117. **Guideline 1** – deals with the agreed improvements to the notification process and the language regime and establishes the basis upon which notification of the UCITS intention to market its units in another member state is made. The key questions and benchmarks for this guidelines ensure that:

- the language for the notification should be in the sphere of international finance where this is not contrary to the domestic legislation or regulation – and where it is, that steps to change this are being taken; and
- that the notification process is simplified by allowing or facilitating the electronic filling of the notification and its supporting documents.

118. **Guideline 2** – reinforces the basic principle that providing that the marketing arrangements comply with Articles 44(1) and 45 of the Directive, the passport of the UCITS must be respected. The key questions and benchmarks have been established to ensure that:

- that non acceptance of the passport for any other reason results in an assessment of non compliance with the guidelines

119. **Guideline 4** – deals with the agreed improvements to checking the completeness of the notification letter and shortening the two month period and the actions that the host competent authority should take in relation to incomplete notifications. The key questions and benchmarks for this guideline ensure that :

- the 2 month period can only commence following receipt of a completed application;
- completion of the notification has a common understanding and meaning
- the notification and supporting documents are checked and that confirmation of receipt is given
- a notification is made to the UCITS in the even that the notification is incomplete
- a failure of the host competent authority to notify the UCITS of receipt of the notification after one month enables the notifying UCIT to assume that the notification is complete;
- that a time limit for provision of missing documents and information by the notifying UCITS to the host competent authority is set;
- that the notifying UCTIS is informed of the commencement of the 2 month period
- the UCITS can commence marketing its units after 2 months following the delivery of a complete notification – irrespective of a failure of the host competent authority to communicate with the UCITS.

120. **Guideline 5** –deals with the agreement to shorten the 2 month period and establishes that the host competent authority has a maximum of two months within which to check the notification. The key questions and benchmarks for this guideline ensures that:

- the 2 months period can not be extended;
- the 2 month period should be shortened whenever possible; and
- that once the host competent authority has completed its review of the notification, it should communicate its findings as soon as possible so that marketing can start immediately.

121. **Guideline 7** – deals with the certification of documents and CESR’s agreement to rely on self-certification of copies of original attestations by the notifying UCITS. The Key questions and benchmarks for this guideline ensure that:
- the host competent authority has to require the latest versions of documents as filed and approved by the home competent authority;
 - self-certification by the UCITS attesting to that fact that the documents are the latest versions as filed and approved by the home is accepted; and
 - the host competent authority does not require certification of the documents by the home competent authority.
122. **Guideline 9** –deals with the agreement to treat umbrella funds in such a way as to significantly reduce the time it takes to check new sub funds where the host is already familiar with the marketing arrangements. The questions and benchmarks for this guideline ensure that:
- The host only requires notification of those sub-funds which are to be marketed actively.
123. **Guideline 10** -deals with simplifying the notification procedure for Umbrella funds. The questions and benchmarks for this guideline ensure that:
- where sub-funds are notified at the same time, UCITS are allowed to submit a single notification letter for all of them;
 - this applies also to umbrella funds in the contractual and unit trust forms;
 - cross referencing of documents previously submitted and remaining unchanged is allowed;
 - this applies also to umbrella funds of in the contractual and unit trust forms;
 - if new funds that are proposed to be marketed are added to existing umbrella funds that the notification procedure applies, as does the 2 month period and the requirement that this requirement is included in the host’s publication of its marketing rules;
 - the 2 month period is shortened wherever possible;
 - one prospectus is required for the notification of umbrella funds and that this is recommended;
 - self-certification by the UCITS regarding the nature of the marketing arrangements applicable for each sub fund is required where separate full prospectuses are provided for each sub fund;
 - the addition of new share classes to a sub fund must be notified to the host competent authority; together with objective criteria on which they are based;
 - UCITS can commence marketing new share classes immediately upon notification (provided no other reason to prohibit marketing applies).

Non Key Guidelines

124. In contrast to these guidelines, guidelines **3,6,8 11,12 & 13** [although important in order for the simplification of the notification process,] are additional extras that not considered to be as fundamental for the purposes of simplifying the notification process-

and as such CESR considers that a member can be considered as fully applying the spirit guidelines and achieving the objective of simplifying the notification process, even if these guidelines are not complied with as the non application of these guidelines does not prohibit the passporting of UCITS.

125. **Guideline 3** – reinforces guideline 2 by detailing how reasoned decisions not to allow marketing of UCITS should be made and communicated. Non Compliance with this guideline still enables the UCITS to commence marketing their units within the 2 month period provided that the marketing arrangements comply with Articles 44(1) and 45 of the Directive (as set out in guideline 2).
126. **Guideline 6** – reinforces guideline 4 and deals with how the host competent authority seeks clarification regarding the notification and its supporting documents. Non compliance with this guideline does not interfere with the ability of the UCITS to market its units within the 2 month period – but does help to deal with the differences in terms of how clarifications are made and dealt with.
127. **Guideline 8** – deals with the language and translation requirements of the documents that have to be submitted to the host competent authority. Although non compliance with this guideline means that there is no facilitation of ascertaining what the language requirements of the host competent authority are, CESR considers that it is compliance with guideline 1 that is crucial for the simplification of the notification process.
128. **Guideline 11** – deals with the information and documents that the UCITS needs to provide to the host competent authority and reinforces Article 46 of the Directive. Although Important, CESR considers that if a member is complying with the key guidelines and not this one, it should still be considered as simplifying the notification process.
129. **Guidelines 12** –deals with the ongoing obligations of the UCITS to keep documents and information up to date and to ensure that information published in the home state is also published in the host state and how the host ensures this. Although important, this guideline does not deal with the notification process itself and as such non compliance with this guideline and compliance with the key guidelines does not mean that the host is not simplifying the notification process.
130. **Guideline 13** – deals with facilitating and simplifying UCITS access to national requirements in the host member state regarding the non harmonised aspects of the marketing of UCITS. Although CESR considers compliance with this guideline to be important, it is not considered fundamental for the purposes of achieving the overall objective of simplifying the notification process.

Summary of the overall benchmarking based on the self-assessments

131. Applying the overall benchmarking criteria discussed in paragraph 115 above as can be seen from the table below, the self assessments show that:

Number of members	Who	Rating achieved
2	Luxembourg, Portugal	100% ~ apply all the guidelines
12	Italy, Romania, Norway, Belgium, Malta, France, Sweden, Austria, Germany Cyprus, Netherlands and Finland	Between 90-98% ~ broadly apply all guidelines
5	Denmark, Spain, Greece, Bulgaria, and Hungary	88-85 – broadly apply all guidelines
3	Ireland, Czech republic and the UK	78-71
4	Iceland, Poland Estonia and Lithuania	62-69
2	Slovenia and Slovakia	54
1	Latvia	49

132. In terms of overall full application by the members of each of the guidelines, as can be seen, full application of the guidelines varies amongst the membership as follows:

Self-assessed Full application by members of the Guidelines:

Guideline	Percentage of members that self-assess full application the guideline
1	37.9%
2	86%
3	93%
4	79%
5	86%
6	58.6%
7	86%
8	68.9%
9	100%
10	58.6%
11	65.5%
12	72%
13	100%





Summary of the overall self assessed application by CESR members of the UCITS Guidelines to simplify the notification procedure

Member	KEY GUIDELINES							NON KEY GUIDELINES						Overall rating of members application of all guidelines
	1	2	4	5	7	9	10	3	6	8	11	12	13	
Luxembourg	10	10	10	10	10	10	10	5	5	5	5	5	5	100
Portugal	10	10	10	10	10	10	10	5	5	5	5	5	5	100
Italy	10	10	10	10	10	10	10	5	5	5	3	5	5	98
Romania	10	10	10	10	10	10	10	5	5	3	5	5	5	98
Norway	10	10	10	10	10	10	10	5	5	5	5	3	5	98
Belgium	10	10	10	10	10	10	10	5	5	5	0	5	5	95
Malta	10	10	10	10	10	10	10	0	5	5	5	5	5	95
France	3	10	10	10	10	10	10	5	5	5	5	5	5	93
Sweden	10	10	10	10	10	10	3	5	5	5	5	3	5	91
Austria	10	10	10	0	10	10	10	5	5	5	5	5	5	90
Germany	0	10	10	10	10	10	10	5	5	5	5	5	5	90
Cyprus	0	10	10	10	10	10	10	5	5	5	5	5	5	90
Finland	0	10	10	10	10	10	10	5	5	5	5	5	5	90
Netherlands	10	10	10	10	10	10	0	5	5	5	5	5	5	90
Denmark	10	10	10	10	10	10	3	5	5	5	5	0	5	88
Spain	10	10	10	10	3	10	10	5	5	3	0	0	5	86
Greece	0	10	10	10	10	10	10	5	5	5	0	5	5	85
Bulgaria	10	10	1	10	10	10	10	5	3	3	5	5	5	85
Hungary	3	10	1	10	10	10	10	5	3	5	5	5	5	82
Ireland	0	10	10	10	10	10	3	5	3	5	0	5	5	78
Czech	10	10	10	10	10	10	0	0	3	3	0	0	5	71
UK	0	10	10	0	10	10	3	5	3	5	5	5	5	71
Iceland	10	0	10	10	0	10	3	5	3	3	5	5	5	69
Poland	3	10	10	0	10	10	3	5	0	3	5	5	5	69
Estonia	10	0	10	0	0	10	10	5	3	3	5	5	5	66

Member	KEY GUIDLINES							NON KEY GUIDELINES						Overall rating of members application of all guidelines
	1	2	4	5	7	9	10	3	6	8	11	12	13	
Lithuania	3	0	10	10	0	10	10	5	3	3	5	0	5	64
Ireland	0	10	1	10	10	10	3	5	3	5	0	5	5	62
Slovenia	0	0	1	10	10	10	0	5	5	3	0	5	5	54
Slovakia	0	10	1	10	10	10	0	5	0	3	0	0	5	54
Latvia	0	10	1	10	0	10	3	5	0	0	0	5	5	49
Overall members full application of each guideline	37.9	86.2	79	86.2	86	100	58.6	93.1	58.6	68.9	65.5	72.4	100	xxx
		Rating												
Fully applied	All key	10												
	All non-key	5												
Partially applied	1,7,10	3												
	2,4,5,9	1												
Not applied	All	0												