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FEEDBACK STATEMENT

**CESR's template for the Key
Investor Information
document**



Executive Summary

In this document CESR gives feedback on the responses received to the consultation on the template for the Key Investor Information document (Ref. CESR/10-794) published in July. The template shows the type of contents and layout that UCITS management companies would be expected to follow for a standard UCITS.

As most of the comments received were either supportive or related to issues that are outside the scope of the template, CESR has not made significant changes to the version published for consultation.

The final version of the template (Ref. CESR/10-1321) is being published alongside this feedback statement.

Background

1. CESR published a consultation paper on a template for the Key Investor Information document (Ref. CESR/10-794) on 20 July 2010. The deadline for responses was 10 September 2010. CESR received a total of 22 responses from a range of stakeholders, including individual investment managers and associations. A list of non-confidential respondents to the consultation is included in Annex 1.

General comments

2. One trade association was of the view that the legal nature of the template needed to be clarified as soon as possible i.e. whether the provisions will become compulsory and whether it will be possible to tailor the document at national level. According to the same respondent, if ESMA were to consider adopting the template via binding technical standards, stakeholders would have to be consulted beforehand.
3. According to one stakeholder, the template should only be understood as a non-mandatory orientation and, in the interest of attractiveness, there should be more flexibility in line with the Regulation (EU) No 583/2010 on Key Investor Information (hereafter 'the level 2 KII Regulation').
4. One respondent provided CESR with an alternative KII template. This template was designed to attempt to transpose the work under the UCITS regime into the broader PRIIPs field. The structure of this template is very different from CESR's (length of the document, use of questions etc.).
5. It was also requested that CESR develop templates in different languages in order to test and reflect the inherent length of various languages, where more and/or longer words may be required to deliver the same information.

The template developed by CESR is an illustrative guide designed to show the type of contents and layout that UCITS management companies would be expected to follow for a standard UCITS. CESR confirms that there is flexibility to tailor the template to take account of the features of a particular UCITS, to the extent that such tailoring remains in accordance with the provisions of the UCITS Directive and the level 2 KII Regulation.

CESR has no current plans to develop templates in different languages but national competent authorities remain free to do so for their jurisdictions.

Q.1 Do you find the attached template useful?

6. Most respondents to the consultation found the template useful, with the exception of two stakeholders who considered it as being little more than a list of information for inclusion in the KII. Some more detailed comments and suggestions were provided, as set out below.
7. According to two respondents, CESR should have given clear guidance on how additional information which will not fit on the template should be accommodated. The same respondents were of the view that CESR should have included examples of 'real' information, as CESR indicated it would consider doing in its technical advice on KII.
8. It was pointed out that the template did not include all the compulsory items required in the regulation for each type of fund (share classes, feeder UCITS, funds of funds etc.). CESR was encouraged to prepare different templates reflecting these structures.

9. Some stakeholders felt that CESR should have addressed the case of structured UCITS with a dedicated template as such funds will raise particular challenges.

CESR considered developing 'mock-ups' showing the content and layout of the KII using 'real' information. However, CESR felt that management companies were better placed to design and develop attractive KII documents for their own UCITS, and that CESR did not wish to prejudice the efforts of the industry in this regard by developing examples on which management companies may have placed too much reliance.

The case of structured UCITS was addressed in parallel by CESR with the development of specific guidelines on the issue of the selection of performance scenarios¹ (including specific examples of scenarios in graph and table formats). Taken together, these documents will help management companies in preparing their KII documents for these types of UCITS.

Q.2 Do you have any other suggestions?

10. Several respondents felt that the section 'charges for this fund' should only make reference to the prospectus as a whole without indicating specific page numbers as this may change from time to time.
11. One respondent took the view that existing structured UCITS that will no longer be open for subscription after the entry into force of the UCITS Directive should be exempt from preparing KII.
12. According to two stakeholders the graph displaying the past performance of the fund should be supplemented by a table with the annual return of the fund and the benchmark (if there is a benchmark in the prospectus).
13. One respondent highlighted that there is no indication on the threshold above which indirect costs should be taken into account and disclosed, and asked CESR to take a position on this.
14. Some members of a trade association believed that it would be useful to include in the KII (in the paragraph under the title 'Key Investor Information') a mention that the product is a UCITS regulated by the EU Directive 2009/65/EC.
15. Several respondents also suggested deletion of the text 'not copy-out from the prospectus' in the section 'Objectives and investment policy' as, according to one stakeholder, there is no requirement in the legislation which can be understood as a strict prohibition of copying any parts from the prospectus.
16. CESR was asked to provide some specific guidance about the use of branding (logo, watermark paper etc.) in the KII.
17. One stakeholder took the view that the information on the possible impact of transaction costs on the UCITS' performance was misplaced and should be either in the performance section or charges section. The same stakeholder also felt that the past performance chart should indicate the date when the fund was launched. On a related point, a suggestion was made that the past performance chart should refer to the year in which the relevant share class came into existence rather than the fund itself.
18. According to one respondent, the risk and reward section should include a statement regarding the currency exposure of investors who invest in funds that are denominated in a different currency from their own.

¹ See 'Selection and presentation of performance scenarios in the Key Investor Information document (KII) for structured UCITS', Ref. CESR/10-1318

CESR recognises the potential difficulty of including a link to a specific page or pages of the prospectus. Therefore, the template has been amended so as to allow a cross-reference to a specific section of the KII in relation to information on charges. CESR considers it important that cross-references be as specific and precise as possible, in order to allow investors to locate the information more easily.

CESR did not take on board the suggestion to supplement the graph displaying the past performance by a table with the annual returns of the UCITS. This would not be feasible given the space constraints and would in any case be inconsistent with the level 2 KII Regulation. As regards inclusion of a benchmark, Article 18(1) of the level 2 KII Regulation requires the inclusion of a benchmark where there is one in the Objectives and Investment Policy section.

The issue of the threshold above which indirect costs should be taken into account is not addressed in this template. As regards charges disclosure in general, management companies should refer to Article 78 of the UCITS Directive, the relevant parts of the level 2 KII Regulation and CESR's level 3 guidelines on the methodology for calculation of the ongoing charges figure in the Key Investor Information Document (Ref. CESR/10-674) published in July.

The content of the KII document is fully harmonised by the level 2 KII Regulation, Article 3 of which states that 'No other information or statements shall be included except where this Regulation states otherwise'. Taking this into account, CESR did not consider it feasible to require a statement in the KII that the product is a UCITS regulated by Directive 2009/65/EC.

CESR accepted that there should not be a strict prohibition on copying-out text from the prospectus. It has therefore been clarified in the final version of the template that this is merely a suggestion.

The use of corporate branding in the KII is already addressed by Article 5(3) of the level 2 KII Regulation, which states that 'where the design of the corporate branding of the management company or the group to which it belongs is used, it shall not distract the investor or obscure the text'.

In the advice that CESR delivered to the European Commission in October 2009 on the format and content of KII (Ref. CESR/09-949), CESR recommended that the information on the effect of transaction costs on performance be included in the Objectives and Investment Policy section. This recommendation was based on the results of the consumer testing, which suggested that investors had difficulty comprehending information about transaction costs when included in the Charges section. More specifically, it was felt more appropriate to include the information in the Objective and Investment Policy section as the investment policy of the UCITS is the key factor in determining whether transaction costs are likely to be significant. This suggestion was incorporated into the level 2 KII Regulation (see Article 7(2)(e)).

CESR agreed with the suggestion to incorporate into the past performance chart the year in which the fund started to issue units.

CESR did not consider it necessary to add a specific provision on currency risk since the level 2 KII Regulation clearly states that the synthetic risk and reward indicator must be supplemented by a '*narrative explanation of risks which are materially relevant to the UCITS and which are not adequately captured by the synthetic indicator*'.

Annex 1 – List of respondents

	Name of respondent
1.	Association of British Insurers
2.	Association française de la gestion financière
3.	BlackRock
4.	Bundesverband Investment und Asset Management
5.	Caixa Geral de Depositos
6.	Danish Shareholders Association
7.	European Banking Federation
8.	European Fund and Asset Management Association
9.	European Federation of Investors
10.	Investment Management Association
11.	INVERCO
12.	Joint Associations Committee of the International Swaps and Derivatives Association
13.	Italian Banking Association
14.	Legal and General
15.	Austrian Federal Economic Chamber
16.	Zentraler Kreditausschuss