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The Committee of European Securities Regulators
11-13 avenue de Friedland
75008 Paris
France

London, 10th September 2009

Consultation paper on CESR's technical advice at level 2 on the format and content of Key Information Document disclosures for UCITS and associated Addendum

The CFA Institute Centre for Financial Market Integrity ("CFA Institute Centre") welcomes the opportunity to comment on the Committee of European on CESR's technical advice at level 2 on the format and content of Key Information Document disclosures for UCITS (the "Consultation").

Preamble

The CFA Institute Centre[1] promotes fair, open, and transparent global capital markets, and advocates for investors' protection. We attach great importance to the legislative proposals related to the Undertakings for Collective Investment in Transferable Securities ("UCITS") Directive, which establishes the common framework for laws, regulations, and administrative provisions relating to retail investment funds in the European Union.

The aim of the KID is to provide investors with clearer, more concise and relevant information about the essential characteristics of the UCITS concerned, over a 2-page document, in order to facilitate more informed decision making on the part of retail investors.

The Consultation addresses form and presentation, content of the KID and special cases in which the KID should be adapted for particular fund structures. It also includes annexes on the methodology for the calculation of the synthetic risk and reward indicator (SRRI) and for the calculation of charges.

[1] The CFA Institute Centre develops, promulgates, and maintains the highest ethical standards for the investment community, including the CFA Institute Code of Ethics and Standards of Professional Conduct, Global Investment Performance Standards ("GIPS®"), and the Asset Manager Code of Professional Conduct ("AMC"). It represents the views of investment professionals and investors before standard setters, regulatory authorities, and legislative bodies worldwide on issues that affect the practice of financial analysis and investment management, education and licensing requirements for investment professionals, and the transparency and integrity of global financial markets.

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As already indicated in our previous responses to CESR, we recognise and applaud the work of the Expert Group on Investment Management. The task of getting useful information that faithfully profiles the characteristics of a fund on two sides of A4, and yet readily assimilated by investors with little knowledge of investment is exceptionally challenging.

EXECUTIVE SUMMARY

Appearance, use of plain language and document length

- We agree that the maximum length of the KID should be set to two sides of A4, and we discourage any departure from this rule, even for structured funds. We also suggest that content headings and text should be designated to a particular page in order to ease comparability. For what concerns font size, we find a minimum 8 points size unacceptable (as many investors are over 40, an age when near distance reading becomes difficult): as a consequence, we advise CESR to prescribe a minimum size 10.

Objectives and investment policy

- We broadly agree with the proposals regarding this section, but we are surprised to find a reference to minimum rating requirements after the work done by the European Commission seeking to diminish investors' reliance and dependence on credit ratings.
- Concerning reference to a benchmark, we reiterate our support for the inclusion of a historical volatility statistics which would allow investors to assess the risk characteristics of the fund compared to the benchmark.

Risk and reward disclosure + Addendum

- The Synthetic Risk and Reward Indicator has been appreciated during the consumer test for its ease of comparison and easy understanding. However, we are concerned that the SRRI will have, as it stands now, limited investor utility. The suggested SRRI does not in fact convey any measure of the absolute risk and just provides relative comparison to other UCITS.
- Regarding proposals for formulating volatility intervals between buckets on the proposed 6 point scale we strongly support the use of standard deviation, and recommend the use of 10 years of data, based on an index or benchmark, in order to achieve more robust results. More specific recommendations on how to apply this method with absolute return and life cycle funds will be provided more in detail.
- The extension to 10 years of data will also make the migration of funds between risk buckets less of a concern and hence negate the need for smoothing rules; the larger the sample the more stable the estimate. As a consequence, our preference for no migration rules.

- Concerning the methodology used to compute SRRI for structured funds, we would like to bring CESR's attention to the fact that VaR computations typically assume normal distributions. In reality markets are non-normal: they have fat tails. Due to the unpredictable nature of distribution tails VaR frequently underestimates the magnitude and frequency of the worst returns. We also disagree with the use of the risk free rate when using VaR to reverse engineer standard deviation: you will find a clear mathematical explanation in our detailed response.

Charges disclosure

- On the format, we favour a prescribed format for the charging structure table, which should include entry, exit, ongoing and performance fees. We do not think that a summary measure in narrative terms will add any value.
- Concerning funds for which it is not possible or applicable to present ex-post charging figures, we think that those that have not chosen a capped fee or an all inclusive structure should be accountable to regulators as to why they decided not to do so. Such a decision shifts the business risk of the management company to the investor, which we feel is not appropriate.
- As regards the material change in charges requiring the creation of a new KID, we agree with CESR's proposed 5% variation.

Past performance presentation

- We agree with the suggested past performance presentation, which is in line with our previous comments, and with the provision allowing the retention and disclosure of past performance that occurred prior to a material change.
- As a benchmark contains important information for investors, we support the decision to include the benchmark alongside a fund's past performance presentation. This could be done graphically by presenting the benchmark as a bar graph in parallel with the fund's actual performance.
- Concerning the use of simulated past performance, we are against its use, either by use of a benchmark or of a proxy. With a few caveats, such as appropriate and harmonised guidelines, we find the exceptions identified by CESR (new share or unit class, master/feeder structures, predecessor and successor fund and changes in legal status) to be reasonable.

Practical Information

- The consumer testing exercise has shown the benefits of some simplification. Bearing this in mind, we still think however that information on the Home State's taxation regime and how to make a complaint to the management of the fund should be retained. The space they would occupy within the KID is justified by their potential importance to investors.

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- Signposting could be crucial in helping to educate retail investors and provide them with a better understanding of financial concepts and of the main characteristics of a UCITS. We are therefore very supportive of the use of references to other sources of information as long, as rightly pointed out by CESR, this does not hamper the meaning of the KID and its significance as a standalone document.

Share Classes

- We broadly agree with the proposals included in this section. However, we believe that when under the exceptions envisaged a management company is allowed to opt for a single representative share class, this should be the one charging the higher fees. Such a provision would limit the scope for manipulation.

Structured funds, capital protected funds and other comparable UCITS

- We prefer performance scenarios through the use of graphs and tables (Option A). With the appropriate disclosure, a range of performance outcomes based on pre-determined and limited hypothetical scenarios will provide investors with useful information. For the same reason, we would favour the introduction of comparison of the different return outcomes with the risk-free return.

Please do not hesitate to contact us, should you wish to discuss any of the points raised.

Yours faithfully,

Charles Cronin, CFA
Head
CFA Institute Centre, EMEA
+44 (0)20 7531 0762
charles.cronin@cfainstitute.org

Andrea Grifoni
Policy Analyst
CFA Institute Centre, EMEA
+44 (0)20 7531 0757
andrea.grifoni@cfainstitute.org

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The CFA Institute Centre is part of CFA Institute[2]. With headquarters in Charlottesville, VA, and regional offices in New York, Hong Kong, London, and Brussels, CFA Institute is a global, not-for-profit professional association of more than 98,000 investment analysts, portfolio managers, investment advisors, and other investment professionals in 131 countries, of whom nearly 87,000 hold the Chartered Financial Analyst® (CFA®) designation. The CFA Institute membership also includes 136 member societies in 57 countries and territories.

Our detailed comments follow the order of the Consultation's questions.

SPECIFIC COMMENTS

Form and presentation of Key Investor Information

Section 1: Title of document, order of contents and headings

Questions for the CESR consultation
Do you agree with the proposals in Box 1?
Should the information referred to in point 9 of the box be called "Practical information"?

We agree with the suggested presentation. However, when it comes to point 4 "Name of the Management Company" we think it would be more appropriate for corporate branding to be limited to a certain portion of the document. This is the only way to make sure that branding will not be used in an obtrusive way.

As for the specific question, the title "Practical Information" may look too ordinary. We would not be against this, but as you are looking for further suggestions, "Practical and Legal information" may be more appropriate and would prevent consumers from thinking this important section can be ignored.

Section 2: Appearance, use of plain language and document length.

Questions for the CESR Consultation
Do you agree with the proposals in Box 2?
In particular, do you agree that the maximum length of the document and the minimum acceptable point size for type should be prescribed at Level 2?
Are there any other rules that should be prescribed in relation to the appearance of the KID?

We agree that the maximum length of the document should be set at two sides of A4 and would strongly discourage any departure from that rule, even when it comes to structured funds.

[2] CFA Institute is best known for developing and administrating the Chartered Financial Analyst curriculum and examinations and issuing the CFA Charter.

We support prescribing print characters to a minimum 10 point font size and see it as unacceptable to use 8 or 9 point font. Given that many investors are aged over 40, a time when near distance reading becomes difficult, it would be ironic that a document intended to replace fine print in itself becomes a victim of fine print. Such a proposal would have a detrimental outcome on the KID. Using 8 point font, would be counter to CESR's advice that "A Key Information Document (KID) should be: presented and laid out in a way that is easy to read". We would therefore reiterate our advice of using 10 point font size as a minimum.

As for what concerns terminology, we would certainly favour the creation of a glossary of non-technical terms that could be more easily understood by retail investors. At the same time, we think that some terms which make reference to complex financial concepts could bear a reference to an educational website where more explanation could be provided.

Since writing our first letter on this topic in December 2007, we have strongly argued that generic information should be largely removed from the KID and sign-posted to a common website. This information along with an integrated education section that takes the reader through each section of the KID, explaining both at high and detailed levels the utility of the information provided would do much to increase investor knowledge and improve the overall decision making process. We are more and more convinced of the necessity to provide this facility, the desire for a glossary of terms, as expressed by consumer testing, further supports this view. The Dolceta website www.dolceta.eu would seem to be the most logical place to post this information.

We propose one further rule on the KID, concerning form and presentation. The content headings and their associated text should be designated to a particular page of the KID to ease comparability between UCITS for the reader.

Section 3: Publication with other documents

Question for the CESR consultation *Do you agree with the proposals in Box 3?*

We agree visual differentiation from other documents and other legal information is extremely important to familiarise investors with the KID and allow for a clear identification of its role and importance.

The KID should be promoted as a stand-alone document. If integrated into another document, its prominence and apparent value becomes a subordinate part of the larger document. However, we consider inclusion of the KID unbound within a pack of reading materials as acceptable. In addition, this would make the KID sympathetic with UCITS that consist of several investment compartments (Umbrella Funds).

Content of Key Investor Information

Section 4: Objectives and Investment Policy

Questions for the CESR consultation
Do you agree with the proposals in Box 4?
In particular, do you agree that the information shown is comprehensive and provides enough detail to ensure comparability between KIDs?
Are there any other matters that should be addressed at Level 2?

We broadly agree with the proposals in Box 4 with the following exceptions:

- In subsection 'b) iii' we strongly recommend removal of reference to "any minimum rating requirements". We understand that the European Commission is trying to reduce investor dependence of credit ratings. Its appearance in Box 4, appears to conflict with this policy.

- On point 'b) iv', reference to a benchmark should be complemented in the Risk and Reward Section by historical volatility statistics of the index and of the fund. This would give investors the option to review the risk characteristics of the latter compared to the former. Please see our previous response[3] to CESR, and in particular the graphic on page two, and our more detailed comments to the addendum and the Synthetic Risk and Reward Indicator (SRRI).

Section 5: Risk and reward disclosure

Questions for the CESR consultation
What are your views on the advantages and disadvantages of each option described above?
Do you agree that Option B (a synthetic risk and reward indicator accompanied by a narrative) should be recommended in CESR's final advice? Respondents are invited to take due account of the methodology set out in Annex 1, as supplemented by the addendum to be published by the end of July, when considering their view on this question.

Yes we agree with the advantages and disadvantages described that compare the relative merits of a narrative risk indicator versus a synthetic risk indicator.

We do agree with CESR when it recommends Option B. The benefits as described in the 'advantages' mentioned above are a harmonised presentation of risks which will foster fund comparability. The synthetic indicator proved to be the best understood and appreciated by retail investors.

Questions for consultation – Addendum: Synthetic risk reward indicator (SRRI)

[3] Please see http://www.cfainstitute.org/centre/topics/comment/2009/pdf/090514.pdf

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1. *Do you agree with the criteria considered by CESR to formulate its proposals regarding the volatility intervals? Are you aware of any other factors that should be considered?*
2. *Which option (A or B) do you see as more appropriate for the KID?*
3. *Would you like to propose any other alternative for the volatility intervals? If so, please explain your reasoning.*

We are concerned with the development of the SRRI in the KID, in that it will have very limited investor utility. We recognise that many readers of the KID will have limited financial knowledge, and hence the need for simple risk measure. However what is proposed does not pass on any insight on the absolute levels of risk. Nor does the indicator provide any information to the investor on whether the indicated level of risk is commensurate with his/her own appetite or ability to accept risk. The indicator only provides relative comparison to other UCIRTS, whose absolute level of risk is undefined.

We urge CESR to reconsider the ideas submitted in our response to last May's KID technical issues consultation paper. In particular on page 2 of our response we illustrate a synthetic indicator that includes CESR's originally proposed seven box scale in combination with a table of statistical data.

CESR's consumer research has shown that the seven box synthetic scale is understood by investors, but we believe it adds little value. Our suggested supplement of a statistical table will be of great value to those who care to learn more about the characteristics of the investment.

With regards to proposals for formulating volatility intervals between buckets on the newly proposed six point scale, we strongly support the use of standard deviation methodology, but believe the results will be unsatisfactory if achieved using three to five years of data. By unsatisfactory, we mean that the data is likely to be unstable and indeed not fully reflective of the fund's underlying risk characteristics.

We therefore recommend at least 10 years of data, to provide robust results. We recognise that many funds will not be able to offer ten years of data, hence the importance to include in parallel (not in series) the historical volatility of the basket of assets that the fund will contain. We feel that the volatility of the underlying assets over an extended period conveys more useful information to the investor. Basing volatility on the long term history of the underlying assets is straight forward for a fund whose benchmark is an index, but becomes more complex with absolute return funds and life cycle funds.

We have two suggestions to resolve this issue. First where the fund targets a specific level of volatility, which would be disclosed in the "Objectives and Investment Policy" section, and then this becomes the benchmark volatility value for the SRRI. Second, a fund could develop its own 'model[4]' benchmark and use this portfolio to calculate the reported volatility.

[4] The 'model' portfolio is the strategic portfolio; it contains all the assets of a particular investment objective weighted according to strategic objectives. This is the portfolio on which 'tactical' asset allocation is based.

However, a model portfolio could be subject to manipulation and requires safeguards. One of these would require fixing the model portfolio for the life of the fund unless there is a change in the fund's objective and investment policy.

Where the fund has actual historical volatility performance this should be tabulated in parallel with the benchmark. The reader has then insight into the long term risk characteristics of the investment vehicle and where comparable, knowledge of how the fund's volatility has performed relative to the volatility of the benchmark.

At a higher level, we are concerned that the risk buckets are being defined to serve the industry rather than the investor, with emphasis placed on stability and on the need to avoid crowding in certain buckets. We believe the stability issue is resolved by using a 10 year history of the index or benchmark and that the fund should be assigned a position on the six box grid according to the long term volatility features of the underlying assets. As regards crowding, we believe that it is to the investor's benefit if he or she is aware that there are many funds with similar risk return characteristics. These funds will have to compete on other factors, such as fees, which will increase investor utility. If there are gaps in the risk/return spectrum, then again investor's utility will be increased, as designers of these products will create investment vehicles to fill underserved parts of the retail investment market.

As concerns the choice of option A or B in the subdivision of the risk buckets, we prefer option B on the basis that the minimum and maximum subdivisions are narrower than in option A at the higher end of the risk spectrum. We believe this would provide more discriminatory guidance for investors.

In our response to the previous consultation, mentioned above, we put forward an alternative subdivision methodology using the original seven box scale. We reiterate our support for the reasoning behind this methodology.

Questions for consultation – Addendum: Synthetic risk reward indicator (SRRI)

4. *Do you agree that introducing the same rules for assessing migration is desirable?*
5. *If so, which option (2 or 3) do you think is more appropriate?*
6. *Would you like to propose any other rule for assessing migrations? If so please explain your reasoning.*

We believe the concern relating to migration between risk buckets is attributable to the limited sampling period, which will provoke sampling errors. Hence our support for 10 years of historical data based on the performance of the underlying assets, rather than a limited set of data from the fund.

Of the three options, we prefer option one – no migration rules. The quality of statistical analysis increases with the size of the sample data. The larger the sample the more stable the estimate and the less need to introduce smoothing rules to cope with sampling errors.

However, if migration still occurs, this conveys important information on changes in volatility (the volatility of the volatility measure).

Questions for consultation – Addendum: Synthetic risk reward indicator (SRRI)

7. *Do you agree with CESR's proposal concerning the methodology to compute the SRRI of structured funds? If not, please explain and, if possible, suggest alternatives.*
8. *Do you agree with CESR's proposal to use VaR as an (intermediate) instrument for the measurement of volatility? Is the proposed VaR-based approach appropriate to convey the correct information about the relevant return volatility of structured funds?*
9. *Do you share the view that the solution proposed by CESR is flexible enough to accommodate the specific features of all (or most) types of structured fund? If not, please explain your comments and suggest alternatives or explain how the approach could be adjusted or improved.*
10. *Do you agree with CESR's proposal concerning the methodology to compute the VaR-based volatility of structured funds over a holding period of 1 year? If not please explain your comments and suggest alternatives.*
11. *Do you agree with CESR's proposal concerning the methodology to compute the VaR-based volatility of structured funds at maturity? If not, please explain your comments and suggest alternatives.*

In principle, we believe that it is unsound to manufacture a statistical analysis in the absence of observed historical data. Therefore where sample data does not exist we would strongly recommend that CESR does not permit the manufacturing of a result for the sake of filling an empty box on the KID. Accordingly, we do not support the synthesis of a new fund's volatility through splicing or joining a series of observations from a benchmark with the limited historical observations of the fund. There will be a difference between the volatility of the fund and the benchmark, because of the behaviour of the fund manager. Blending the two will disguise the risk behaviour of the manager. This could potentially give the impression that the fund manager prudently manages risk, when in reality he or she could be quite reckless.

In our earlier consultation response we were and still are critical of using VaR as a risk measure. VaR computations typically assume normal distributions, in reality markets are non-normal, they have fat tails. Due to the unpredictable nature of distribution tails VaR frequently underestimates the magnitude and frequency of the worst returns.

Further we disagree with the use of the risk free rate when using VaR to reverse engineer standard deviation for the reasons set below:

σf = (VaR + 1 year zero coupon risk free rate)/1.65

We feel it is inappropriate to use the risk free rate of return, as it will suppress the derived standard deviation (σf). Intuitively these funds are not targeting the risk free rate of return. They market themselves as seeking returns that exceed the risk free rate of return at less than the expected risk.

VaR is calculated from an estimated return or the historically observed mean return (μ):

VaR = μ - 1.65σ

Therefore σ derived from VaR is as follows

σ_f = (μ - VaR)/1.65

The point is illustrated by inserting some estimates. In equation 1, let μ = the risk free rate (2%). In equation 2, let μ = 8%. In both equations let VaR = –20%.

σ_f = (2% –(-20%)/1.65 = 13.33% => Equation 1

σ_f = (8% –(-20%)/1.65 = 16.97% => Equation 2

As illustrated above the choice of using the risk free rate or an expected return on the fund makes a meaningful difference to the expected volatility of the fund. Hence we feel it is more accurate to use an estimated value that reflects the expected return on the fund, rather than the risk free rate of return.

Conceptually we support much of CESR's approach to estimating volatility of structured funds, but we object to the use of VaR as an (intermediate) instrument. The approach is prudent given that the pay-offs of these funds can radically differ in the case of early redemption, or when held to maturity.

In reviewing the methodology used to compare SRRI for structured funds we object to deriving VaR and then reverse engineering the VaR value to establish volatility. Indeed the methodology produces the standard deviation of return (volatility) first time around without having to derive it through reserve engineering.

We refer to the procedure outlines in step three of Box 3[5] and 4[6]: "Isolate the 5% percentile of the [...] of the fund simulated according to step 2". At this point, the analyst could alternatively establish the mean return on the fund from the data and identify the return distribution +/-34.2% around that mean. The resulting range of return is divided by two to arrive at the estimated standard deviation of return. This method eliminates the need for reverse engineering and focuses on the body of the distribution rather than the less reliable tails.

We feel this 'adapted' solution for the methods outlined in Boxes 3 and 4 is flexible enough to accommodate the specific features of all (or most) types of structured fund, as desired by CESR.

Questions for consultation – Addendum: Synthetic risk reward indicator (SRRI)

[5] "Computation of VaR-based volatility of structured funds over a 1 year holding period"
[6] "Computation of VaR-based volatility of structured funds assuming investment until maturity".

12. Do you agree with CESR's decision not to promote further the adoption of the delta representation approach?
13. Do you share the view that CESR's current proposal represents an improvement with respect to the delta representation approach? If not, please clarify why you believe that the delta representation approach may be more suitable to estimate the volatility of structured funds.
14. Do you consider it possible and appropriate to allow the use of Monte Carlo simulations for the computation of the SRRI of structured funds? If yes, please explain whether these methods are more suitable for the computation of VaR or, directly, for that of volatility measures.
15. Do you believe that it would be possible to avoid significant differences in the outcome of such simulations across management companies? What should be the key methodological requirements needed to avoid divergences?

We have no comments on questions 12 and 13.

We do not believe it is possible to use Monte Carlo simulations for the computation of the SRRI of structured funds. It is critically important that the inputs into the KID are transparent and can be replicated and compared consistently between funds. Unfortunately the many steps in developing a Monte Carlo simulation make this nearly impossible. Whilst Monte Carlo engines are extremely powerful tools, they are more suitable for individual projects where the programmers and users can work in close cooperation in order to maximise their utility. Outside this environment Monte Carlo engines become 'Black Boxes' where there is a gap in understanding between the designers who know how a specific engine works and the expectation of users on how the engine meets their needs.

Questions for the CESR consultation
Do you agree with the proposals for presentation of risk and reward in Box 5A?
Are there any other issues that CESR should consider if it decides to recommend this approach to the disclosure of risk and reward?

No, we favour Option B.

Questions for the CESR consultation
Do you agree with the proposals for presentation of risk and reward in Box 5B? In particular, is the proposed methodology in Annex 1 capable of delivering the envisaged benefits of a synthetic indicator?
Does the methodology proposed by CESR work for all funds? If not, please provide concrete examples.
Respondents are invited to take account of the methodology set out in Annex 1, as supplemented by the addendum to be published by the end of July, when considering their view on the questions above.
Are there any other issues that CESR should consider if it decides to recommend this approach to the disclosure of risk and reward?

We agree with to use of a synthetic indicator, bearing in mind the remarks stated above.

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Section 6: Charges disclosure

Questions for the CESR consultation
Do you agree with the proposals in Box 6?
In particular, do you agree the table showing charges figures should be in a prescribed format?
Do you agree with the methodology for calculating the ongoing charges figure?

Yes we do agree with the proposals described in Box 6, as these are in line with our previous comments to CESR and they are consistent with the required disclosure of a fee schedule as mandated by GIPS[7]. Outlining entry, exist, ongoing and performance fees is a crucially important disclosure feature. It should be easily comparable, that is why we prefer the format of the charging structure table to be in a prescribed format. We note that the descriptions of the entry/exit/ongoing charges and performance fees, demonstrate a clear need to signpost this information to the centralised educational resource suggested above.

The single ex-post figure of ongoing charges is the simplest, most transparent measure, and is easiest for investors to understand. It is also the easiest for UCITS operators to implement.

For what concerns in particular point 3 (b) (ii) – the ongoing charges figure is based on last year's expense, which is variable - we agree with this proposal as it improves fund-specific transparency. We appreciate in particular that CESR has removed the adjective "slightly" from the example of warning proposed in the previous consultation, as this could have mislead investors.

Questions for the CESR consultation
Do you agree with the proposals in Box 7?
In particular, do you agree that CESR should not prescribe a specific growth rate in the methodology for calculating the illustration of the charges?

The benefit of the 'summary measure' – a summary illustration of the charges in narrative terms, needs to be weighed against the space it occupies on the document and how meaningful it may be to investors. On balance, we believe that this additional feature cannot justify its space in the document and that it has the potential to mislead investors.

Question for the CESR consultation
Do you agree with the proposals in Box 8?

We agree with points 2 and 3. As regards point 4, we appreciate the need to estimate an ex-ante figure, but believe that management companies must be accountable to regulators on why they did not choose an all inclusive fee or capped structure. As the case described in point 4 transfers the business risk of the management company to the investor, which we do not feel is appropriate.

Question for the CESR consultation

[7] http://www.gipsstandards.org/

Do you agree that a variation of 5% of the current figure is appropriate to determine whether a change is material?

Yes, we do agree.

Question for the CESR consultation
Do you agree with the proposals in Box 10?

Yes, we do agree.

Section 7: Past performance presentation

Questions for the CESR Consultation
Do you agree that the above CESR proposals on past performance presentation are sufficient and workable? If not, which alternative approach would you prefer?

We agree with the proposals, as they are in line with our previous comments to CESR.

Questions for the CESR Consultation
Do you agree that the above CESR proposals on past performance calculation are sufficient and workable? If not, which alternative approach would you prefer?

We agree with this approach. We would like to point out that in order to achieve consistent calculation and presentation of past performance data, we still recommend that due consideration be given to the GIPS standards.

Questions for the CESR Consultation
Do you agree that the above CESR proposals on material changes are sufficient and workable? If not, which alternative approach would you prefer?

Yes, we agree with CESR's proposals, which would allow past performance that occurred prior to a material change to be retained, but subject to disclosure that the circumstances under which that performance was achieved no longer apply.

Question for CESR consultation
Do you agree with this approach? If not, which alternative approach would you prefer?

Broadly we agree. We believe that, where the fund's strategy and objectives contain a benchmark, this must be included alongside the fund's performance in the performance history disclosures. UCITS operators should also include a relevant benchmark in the performance disclosures even when such a benchmark is not disclosed in the strategy and objectives. Where the fund has less than ten years of history we believe investors would benefit from seeing the performance of the benchmark during the period that predated the inception of the fund. The benchmark contains useful information on the fund's potential return and volatility characteristics. We note that in section 13 of the consultation 'Feeder

Funds', CESR recommends that "the past performance of the master UCITS may be shown for the years before the feeder existed …". We feel this is very helpful and is consistent with the above recommendation of presenting benchmark performance over 10 years in parallel with actual fund performance and/or on its own prior to the inception of the fund. We suggest presenting the benchmark as a bar graph in parallel with the fund's actual performance.

However, where no appropriate, relevant benchmark is disclosed or exists, a benchmark should not be displayed to avoid providing misleading information.

We also agree with the choice not to look to resolve tax issues. Tax treatment may be very different between Member States, and it is up to national distribution channels to make investors aware of the details of taxation for the product.

Questions for the CESR Consultation
Do you agree that the above CESR proposals on the use of "simulated" data for past performance past performance presentation are sufficient and workable? If not, please suggest alternatives?

We are convinced that simulated performance, by use of a benchmark as a proxy for actual fund performance, should not be allowed. It is potentially misleading to link actual fund performance to a proxy. Therefore, such disclosures do not provide appropriate investor protection.

Concerning the exceptions identified by CESR (new share or unit class, master feeder structures, predecessor and successor fund and changes in legal status), there must be harmonised guidelines at the European level concerning conditions under which a track record extension could be used. This is necessary to ensure consistent application across funds.

For new share classes of an existing fund or sub-fund, the approach set out above is appropriate, provided that the fund's common scheme property (e.g. non class-specific income or expenses) is apportioned according to the relative net asset values of the share classes, and that the two share classes in question do not have materially different fee structures.

In master/feeder funds, we agree with the identification of the role played by additional fees, which would make simulated past performance of the master not acceptable. Where two share classes are the same except for the annual management charge, the share class with the lower management fee will naturally outperform the share class with the higher fee. If the difference in management fees were material, this outperformance could be significant and would diverge over time (all other factors being equal). Under such circumstances, it would be inappropriate to extend the track record of one share class to the other.

In addition to this case, we would like to provide CESR with another noteworthy scenario in which the use of simulated data performance should be acceptable only under certain circumstances. If the new share class accumulates distributable income but the existing share class does not, then the track record of the existing share class should only be extended to the new share class if it is calculated retrospectively with income having been reinvested.

Regarding the options for track record extension for feeder funds, we agree with the proposal as it is clear and unambiguous: if material amounts of cash were held in the feeder fund, this would render it not representative of the master fund.

Finally, we agree that a track record extension should be allowed when a fund changes its legal status in the same Member State, provided that there are no other changes in the fund's characteristics. The economic substance of the fund should prevail over its legal form. CESR may wish to issue 'level 3' guidance to national competent authorities if it deems necessary in order to avoid divergent implementation amongst Member States.

Section 8: Practical information

Question for the CESR consultation *Do you agree with the proposals in Box 17?*

While being sympathetic with CESR's simplification effort, particularly in the light of the consumer testing exercise, we maintain that information such as:

i. A warning that the fund's Home State taxation regime may impact, and
ii. How to make a complaint in relation to the management of the fund, should still be included.

This applies especially for what concerns the impact of the Home State taxation regime: an investor in Member State A would not be in most cases fully aware of the taxation regime of Member State B where the fund is domiciled.

Question for the CESR consultation *Do you agree with the proposals in Box 18?*

As per our previous comments, we are very sympathetic towards the idea of signposting information.

We are convinced that signposting to an integrated education resource that takes the reader through each section of the KID, explaining both at high and detailed levels the utility of the information provided would do much to increase investor knowledge and improve the overall decision making process.

Apart from these informative and educational references, we agree with CESR that the number of signposts should be kept to a minimum, in order not to hamper the purpose of the KID: investors should ideally be able to understand in full the information included within the document.

Section 9: Circumstances in which a KID should be revised

Question for the CESR consultation *Do you agree with the proposals in Box 19?*

We agree with the proposals, keeping in mind our disagreement with the rules set out in Section 6 – Box 9 on changes to the charging structure.

Special cases - how the KID might be adapted for particular fund structures

Section 10: Umbrella structures

Question for the CESR consultation
Do you agree with the proposals in Box 20?

We agree with the proposals. We appreciate in particular the disclosure of the different charges that may apply between buying or selling units and switching from units in one compartment to another.

Section 11: Share classes

Question for the CESR consultation
Do you agree with the proposals in Box 21?

We do agree with points 1, 1 a), 2 and 3.

As a general rule, the management company should prepare a KID for each separate share class, as these classes often differ in some key features such as charging structure, treatment of fund income and distribution channel.

These different characteristics should never be blended into one single KID (point 2).

For what concerns the first exception envisaged, we agree with the possibility of combining more classes in one KID as long as the differences are clearly marked visually (through a table or chart) and this does not undermine the prescribed length and presentation.

Regarding the exception in which one single share class is selected, the one with the higher fee structure should be presented in the charges disclosure section.

Section 12: Fund of funds

Question for the CESR consultation
Do you agree with the proposals in Box 22?

We agree that both the description of the objectives and investment policy as well as of the risks of a fund of funds should reflect those of the underlying collective undertakings. It is important in particular that the fund of funds' objectives contain a clear statement on the reasons behind the manager's choice of the funds.

On top of this, we also agree on the costs of buying and selling shares or units in the underlying funds to be treated as transaction costs and therefore taken into account in the charges section and disclosed accordingly.

Section 13: Feeder funds

Question for the CESR consultation
Do you agree with the proposals in box 23?

We agree with the proposals. A separate KID should be produced for each fund. The KID for a feeder UCITS should be specific to the feeder and not simply replicate the KID of the master UCITS. The same applies for past performance and fees charging structure.

Charges in particular, should reflect both the costs of investing in the feeder UCITS and any fees or expense that the master may charge to the feeder UCITS.

Section 14: Structured funds, capital protected funds and other comparable UCITS

Questions for the CESR Consultation
Do you agree with the above CESR proposals on performance scenarios? In particular which option (A or B) should be recommended? If not, please suggest alternatives.

We prefer Option A (Box 24A): performance scenarios through the use of graphs or tables. Disclosing a range of performance outcomes, strictly under pre-determined, limited hypothetical scenarios (favourable, adverse and flat market conditions), can be effective in providing retail investors with an illustration of the possible outcomes from investment in structured or guaranteed funds. The disclosure that the illustrated scenarios are manufactured and are not actual outcomes should be clearly marked in this section of the KID.

Furthermore, as already stated in our previous response, we would favour the inclusion of a comparison of the different return outcomes with the risk-free return, in order for investors to be able to measure the opportunity cost of their investment.

For what concerns specifically the presentation format, we strongly prefer the use of tables. These show distinct performance scenarios for the underlying index, make explicit the return assumptions for the index, and the fund price at maturity, along with accompanying explanations. This would provide retail investors with a useful indication of how their investment may perform over the (fixed) investment horizon of such funds.

We understand that for a more complex fund a graph may be more clear than a table. However, we would like CESR to clearly define the situations in which this exception may apply. Equally, we would like CESR to issue clear guidelines on the format used.

Other issues

Section 15: Medium and timing of delivery, including use of a durable medium

Questions for the CESR Consultation
Do you agree with the proposals in box 25? If not, what alternative approach would you suggest?

Yes.

Section 16: Other possible Level 3 work

Question for the CESR consultation
Do you agree with the approach to transitional provisions set out above?
Are there any other topics, relating to KII or use of a durable medium, not addressed by this consultation, for which CESR might undertake work on developing Level 3 guidelines?

We agree with the transitional provisions and have no further comments.