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Committee of European Securities Regulators (CESR)
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75008 Paris

Paris, 15th May 2009

AFG RESPONSE TO CESR CONSULTATION PAPER ON TECHNICAL ISSUES RELATING TO KEY INFORMATION DOCUMENT (KID) DISCLOSURES FOR UCITS

The Association Française de la Gestion financière (AFG)[1] welcomes CESR's consultation on technical issues relating to Key Information Document (KID) disclosures for UCITS.

It is worth noting that our working group dedicated to this matter counts over fifteen French investment management companies and is representative of the industry. It is made of entities that are varied in size (small or large), structure (entrepreneurial or belonging to French or foreign banking or insurance groups) and product range (plain vanilla funds, structured funds or both). The working group appointed by CESR on the subject was smaller and for this reason perhaps less comprehensive.

General comments

The objective of the KID is to provide investors with harmonised information that will enable them to compare funds belonging to a same range across all Member States. The disclosure of risk should therefore rely on a single methodology suitable to all funds and applicable in all market conditions.

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1 The Association Française de la Gestion financière (AFG)[1] represents the France-based investment management industry, both for collective and discretionary individual portfolio managements.

Our members include 409 management companies. They are entrepreneurial or belong to French or foreign banking or insurance groups.

AFG members are managing 2300 billion euros in the field of investment management, making in particular the French industry *the leader in Europe in terms of financial management location* for collective investments (with nearly 1300 billion euros managed from France, i.e. 23% of all EU investment funds assets under management), wherever the funds are domiciled in the EU, *and second at worldwide level after the US*. In the field of collective investment, our industry includes – beside UCITS – the employee savings schemes and products such as regulated hedge funds/funds of hedge funds as well as a significant part of private equity funds and real estate funds. AFG is of course an active member of the European Fund and Investment Management Association (EFAMA) and of the European Federation for Retirement Provision (EFRP). AFG is also an active member of the International Investment Funds Association (IIFA).

A synthetic indicator would then appear to be an appealing solution. Unfortunately, no such indicator can be found. Conversely, a narrative approach can really be tailored to the reality of the fund strategy. Counter intuitively, a narrative approach could also allow for a better comparability between funds. Indeed, it can be argued that a risk indicator would often be misleading, especially as our workings show that no argument is strong enough to promote one methodology over the others.

- Historical volatility has many advantages. However, it appears a poor solution in some cases, and does not suit all funds and all market conditions. CESR itself recognises the weaknesses of this methodology. The current crisis shows, anyway, that it is <u>not</u> a reliable indicator of risk.

- Value at Risk (VaR) can be considered a more appropriate indicator in some cases. However, this measure of risk may sometimes prove too complex and costly to implement.

- More generally, a quantitative approach can not completely guarantee against the risk of manipulation of data.

- In this light, a methodology based on qualitative - rather than quantitative - data presenting the risk relating to the type of assets in the portfolio could be considered as a possible alternative.

Pros and cons for each option appear of equal value and it is impossible for us at this time to choose one methodology over the other.

In addition, synthetic risk indicators would only refer to the past and cannot be predictive for the future – and could therefore be even more misleading.

The use of a recommended minimum investment period would be probably, indirectly, more informative for the investor, possibly complemented by a maximum percentage recommended in the portfolio.

In any case, a crucial dimension of the issue is not at all tackled by CESR, in spite of being central for AFG members: the risk related to the investment depends on the investor profile and cannot be assessed in absolute terms. E.g. this risk depends on the age of the investor (time-horizon), or of its general portfolio composition.

Therefore **<u>it seems extremely difficult to replace a narrative approach by a synthetic indicator</u>**. For instance, the US SEC considered this possibility one decade ago and finally decided not to set up such an approach – which means that today the summary prospectus in the US, regarding the presentation of risks, is still based on a narrative approach, as the SEC explicitly recognised the limits of quantitative approaches.

If CESR were to take that decision, it would bear the entire responsibility for its future consequences on the quality and reliability of investors' information.

AFG is satisfied with most of the options proposed by CESR on past performance and charges. AFG agrees with the use of a bar chart to describe past performance and in general recommends the use of **<u>a percentage figure</u>** - rather than a cash figure – to ensure a better comparability for investors. However, AFG is still concerned about the prohibition of presenting past performances for periods shorter than one year, for three reasons: first, many short-term funds have a time-horizon below one year and therefore could not be appropriately assessed if banned from performance presentations below one year; second, for recently launched funds, the lack of recent performance presentation will harm the correct information of investors; third, for all funds, this lack of information would mislead investors regarding the recent trends followed by the relevant funds. For instance in 2007 and 2008, many investors would have made counter-productive fund investments if they had not got recent performance information regarding such funds.

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Chapter 1 – RISK AND REWARD DISCLOSURE

The possible options considered by CESR for disclosing the risk/reward profile of a fund in the KID include a narrative approach and a synthetic indicator. AFG already expressed in the past its preference for the former solution. Nonetheless, it examined the possibility of developing and implementing such an indicator based on historical volatility. We found this approach worth examining, but our workings showed its many limitations: volatility is not reliable and does not cover all fund types. These shortcomings seem to concur with the weaknesses highlighted by CESR itself. We examined an alternative method to volatility - VaR – as well as an indicator based on qualitative, rather than quantitative, data that could be beneficial to investors.

Risk/reward indicator: proposed methodology

1) Would the proposed calculation methodology lead to a categorisation of funds' potential risk and reward profiles which is clear, appropriate, comprehensive and easy to implement?

- AFG agrees that the use of historical volatility is an approach that is relatively easy to grasp and that it would lead to a categorisation of funds' potential risk and reward profiles which is clear.

- However, due to its simplicity, we have to admit that this measure is only able to describe basic risks. There are to say the least doubts that volatility would be applicable to more sophisticated funds even though the need for a risk indicator is more acute for such funds. Volatility might not be an appropriate measure of risk, as it ignores the concept of time horizon and does not apply in distressed markets conditions. Instead of volatility they propose to use a more accurate measure of risk, namely the VaR.

- In addition, an indicator based on volatility would have to be updated on an ongoing basis, thus creating implemental difficulties and costs.

- Most importantly, historical volatility could be misleading: it is based on past performances, and as such can be questioned as a reliable indication of future risks, especially in these times of turmoil.

2) To what extent does it provide a comprehensive approach to risks, including liquidity risk, counterparty risk etc.?

AFG acknowledges that volatility can not provide a comprehensive approach to risk. We believe that **no indicator** can properly encompass liquidity risk, counterparty risk or event risk.

- For sure, volatility does not reflect liquidity risk; for instance, volatility can be limited when liquidity is low.
- The methodology proposed by CESR does not apprehend counterparty risk properly. Volatility captures neither the risk that one party might not live up to its contractual obligations nor the risk that one party might not pay what/when it supposed to.
- Furthermore, historical volatility has not proved a reliable risk indicator when markets are distressed.

Historical volatility does not seem adequate to cover all risks: CESR itself highlights some weaknesses of its methodology and suggests overcoming them with the use of a "risk add-on" or a modifier.

3) Could implementation of the methodology and flanking measures lead to some funds being classified in a category significantly lower than the one in which they should belong?

Yes, we believe that the methodology proposed by CESR could lead to some funds being classified in a category significantly lower than the one to which they should belong. Volatility may not be a relevant measure of risk, for instance in the case of structured funds. In particular, it could lead to some funds being classified in a lower-risk category than the one to which they should actually belong (e.g. funds with no guarantee might be assigned to a lower-risk category than guaranteed funds).

4) Does the methodology allow appropriate discrimination between different funds across the universe of UCITS funds so that there is no excessive 'bunching' of funds in one or two categories?

We do not know if the methodology could allow appropriate discrimination between different funds across the universe of UCITS funds, as CESR does not elaborate on the allocation of different levels of volatility to different categories of risk.

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<u>Application to different fund types: market funds, strategy funds, structured funds (including guaranteed funds)</u>

5) What are the merits and limits of using a risk 'add-on' when a large part of a fund's return history is derived from a proxy?

CESR suggests using a risk "add-on" when a large part of a fund's return history is derived from a proxy. AFG is concerned that this "add-on" could be inappropriately perceived by investors. We believe that, if the synthetic indicator approach is chosen, it would make sense to use an indicator that could consistently apply to **<u>all types of funds</u>**, whatever the length of their track record. In other words, the need for a "risk add-on" highlights a weakness of the proposed method, as it can not cover consistently all fund types.

6) Can you suggest another option to tackle situations where the methodology may not be expected to cover all risks for this kind of fund?

AFG considered alternative options to the use of volatility but each presents pros and cons.

- No methodology can accurately cover all types of risk (e.g. liquidity, counterparty, and event).

- In some cases, VaR could constitute an improvement to the methodology. This indicator takes into account the time horizon of the investment and as a consequence it can apply to all funds, including the more sophisticated funds like structured funds. VaR is already used by large banks. However, in some cases, the calculations involved can prove complex and costly, and it would be difficult to implement and control them.

- Another option would be the use of an indicator based on qualitative – rather than quantitative – criteria, as it was for instance implemented by the French Banking Federation (FBF).

    - Easy-to-grasp concept of 'loss in capital'
    - Intuitive scale from 1 to 4
    - Apply to all types of funds
    - Covers all types of risks
    - Easy to implement and control

  Please find below an example of a FBF risk profiling grid for a Luxembourg-domiciled equity UCITS.

Category A	Category B	Category C	Category D
Invested capital guaranteed products	Products likely to generate a moderate risk of capital loss	There is a risk of capital loss, but limited to invested capital	There is a risk of large capital loss that could be higher than invested capital

<u>What does the indicator mean?</u>

This four level scale indicator's computation is based on the asset classes underlying the Sub-Fund assets and on the portfolio manager degree of discretionary management.

More about this indicator

This Risk/Reward indicator measures the Sub-Fund's potential capital loss in relation to the Sub-Fund's component and the usual factors that affect this type of investment.

Why this Sub-Fund in this category?

This Sub-Fund is mainly invested in equity for which there is high risk of invested capital loss.

Special Risk Consideration

Risk linked to investments in emerging markets: Legal infrastructure, in certain countries in which investments may be made, may not provide with the same degree of investors' protection or information to investors, as would generally apply to major securities markets (governments' influence, social, political and economic instability, different accounting, auditing and financial report practises). Emerging markets securities may also be less liquid and more volatile than similar securities available in major markets, and there are higher risks associated to transactions settlement, involving timing and pricing issues.

Investment Horizon

This Sub-Fund is appropriate for investors who do not withdraw their money for eight years.

For more details about risks, please refer to general part of the Prospectus, sections entitled "General Risk Considerations" and "Special Risk Considerations".

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Application to all UCITS types

7) Does the methodology cover all UCITS types? More specifically, do you agree with the proposed approach of distinguishing between market funds, strategy funds, and structured funds (including guarantee funds) and the adaptation of the calculation methodology to each of these fund types?

AFG's findings question the fact that the methodology will be able to cover all UCITS types. Indeed, the objective of the KID is to provide investors with comparable information across the same range of funds. An indicator based on volatility would be relevant for the more basic funds but will not be a reliable risk indicator for many other funds such as absolute return funds and funds using derivatives. This method relies on the assumption of a normal distribution, and therefore can not apply to funds that do not have such a profile. Recent events proved that volatility – like most quantitative methodologies - is not appropriate when markets are distressed. The use of VaR for all funds could be proposed, using a simple VaR (i.e. Gauss) for basic funds and a more sophisticated VaR (e.g. historical VaR or Monte Carlo VaR) for more complex funds, but would be complex and costly to implement and control.

8) As regards the use of a 'risk add-on' and an exclamation mark (!) in situations as presented in the above section, what are the merits and limits of each solution? Can you suggest another option to tackle the described situations?

AFG believes that the use of a "risk add-on" and an exclamation mark would be confusing for investors. This would probably lead to some funds being classified in a category significantly higher than the one to which they should belong.

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<u>Monitoring of the categorisation of a fund</u>

9) Are the proposed solutions (systematic classification into category 7, use of a 'risk add-on' or a modifier) to tackle situations of a potentially changing risk profile appropriate and commensurate? What are the merits and limits of each option?

No, AFG does not believe that the proposed solutions are appropriate and commensurate. We pointed out earlier that an indicator based on volatility may not apply to more sophisticated funds for the main reason that it does not take into account the time horizon of the investment. The systematic classification into category 7, the use of a "risk add-on" or a modifier, although required due to the shortcomings of the methodology, would certainly confuse investors.

10) In particular, do you agree that category 7 should be the highest risk and reward category as well as the special category for certain funds e.g. those with severe event risk?

No, we do not agree that category 7 should be the special category for certain funds (e.g. structured funds). The approach presented by CESR could lead to some funds like guaranteed funds to be assigned to the high-risk category 7 in spite of their low-risk nature. On the other hand, funds with no guarantee could be assigned to lower-risk categories.

11) Do you foresee any other situations where the methodology may not be expected to capture appropriately the risk profile of the fund? If so, what solution should be considered?

Again, we wish to put the stress on the too basic nature of the concept of historical volatility. We explained that this risk indicator is far from comprehensive and can not be applied to all types of funds in all market conditions. Given the limitations of this approach, we examined alternative approaches, including VaR and a qualitative indicator, with inconclusive pros and cons in each case. Our general conclusion regarding the methodology proposed by CESR is that it is extremely difficult to determine a reliable alternative to a narrative approach.

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<u>Implementation and control</u>

12) How easy would the methodology be for UCITS providers to implement and for regulators to supervise?

We agree that volatility would be a relatively easy indicator to implement and to control. Volatility is a measure that can be computed. It is already used by many market participants. But as explained previously, volatility can be a misleading indicator.

13) Should any other issues be taken into account regarding the calculation methodology?

Historical volatility is based on past data and as such may be misleading of the future risks of an investment. Most quantitative methodologies are based on past results and as a result present this flaw. For this reason, a qualitative methodology such as the approach implemented by the FBF can be considered as more appropriate to apprehend future risks. Please refer to 6) above. However, our general conclusion is that **<u>no methodology for a synthetic indicator is satisfactory and therefore that the narrative approach should be kept</u>**.

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<u>Presentation of the risk indicator</u>

14) Do you agree with the proposed scale and that the number of categories should be 7?

If it is decided to use an indicator, then we approve in principle the use of a scale to represent the degree of risk attached to an investment. This will be useful for investors (and regulators when assessing fund mergers). However, AFG does not agree with a non-linear scale and that the number of categories should be 7.

- CESR does not elaborate on how different levels of volatility will be attached to different risk categories. AFG believes that a non-linear scale would be too difficult to understand or misleading for investors (for example, not everyone is aware that the Richter magnitude scale is logarithmic and some people wrongly believe that an earthquake assigned 4 on this scale has twice the shaking amplitude of an earthquake that measures 2).

- We believe fewer categories will enhance investors' protection: too many categories of risk could be confusing for investors.

15) How should the methodology define appropriate volatility 'buckets'? Do you agree that a non-linear scale might be needed to tackle issues of stability, granularity and fair distribution of funds along the scale? Would it be sufficient to prescribe numeric parameters to each 'bucket', or would additional definitions be necessary?

We do not believe that there is a need for a non-linear scale. It would be tricky to design, difficult to understand for investors, complex to implement and awkward to control. Investors would certainly be highly confused by such a scale.

16) Which form of non-linear scale would be the most appropriate? What would be the merits and drawbacks of such a scale?

As explained above, we believe that a non-linear scale, even though it would probably allow refining the funds' classification, is not appropriate to represent the risk attached to an investment, as it would probably be misread by investors.

17) Do you agree that the categories should not carry any descriptions other than a number (and the '!' modifier if appropriate)?

AFG believes that the risk categories should be described by a number only. We are of the opinion that the chosen methodology should consistently apply to all funds in all market conditions in order to allow comparability and should not require the use of a "risk add-on" or a modifier. Please refer to 14.

18) Do you agree that some funds belong in category 7 due to their special characteristics (see above explanations)?

No, we do not agree that some funds should belong to category 7 due to their special characteristics. CESR would assign guaranteed funds to category 7, but if held until maturity, these funds are most probably less risky than other types of funds.

19) For funds which have a specificity in terms of risk, do you agree that the modifier should take the form of an exclamation mark (!)? Does an exclamation mark (!) have an overall meaning which might be contrary to the above-mentioned purpose for the general public in some Member States? If so, is there any other type of warning presentation that would be more appropriate?

AFG does not approve the use of a modifier. We believe that, even though it would be required to draw the attention of investors on the specific characteristics of the investment, the use of a modifier would undermine the sturdiness of the method. Again, we believe that the chosen methodology should consistently apply to all funds in all market conditions.

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Disclaimers and explanations that should accompany the synthetic risk/reward indicator

20) Do you agree with the proposed list of disclaimers to be used in relation to the synthetic risk and reward indicator?

Yes, we believe that the list of disclaimers proposed by CESR is relevant. However, the high number of items on this list shows that we should bear in mind the strong shortcomings of the methodology. The nature and number of disclaimers highlight how numerous and significant the limitations of historical volatility are.

21) Are any of the disclaimers not directly useful or helpful?

If an indicator were to be chosen, AFG thinks that the disclaimers proposed by CESR would be beneficial to investors. Please refer to 20) above.

22) Can you suggest any other warnings that are missing from the proposal?

We believe it would probably be useful to allow adding special risk considerations relating to the nature of the assets (e.g. investments in emerging markets, small caps) and referring the reader to the full prospectus for a detailed description of the risks attached to the investment.

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Chapter 2 – PAST PERFORMANCE

Globally, AFG is satisfied with the approach proposed by CESR. However, we believe that CESR should not systematically reject back testing as an option as this approach can prove reliable if it is properly monitored by the regulators.

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Presentation of past performance

23) Is the proposed framework of general requirements for the presentation of past performance with a bar chart sufficient and appropriate?

Yes, AFG believes the presentation of past performance with a bar chart is sufficient and appropriate.

24) To what extent is there a risk of divergent practices in different countries so that comparability of UCITS across the EU would be hampered?

AFG wishes to highlight the need for harmonisation among the Member States in order to enable comparability of UCITS across the EU.

25) Should CESR recommend a more prescriptive approach in terms of bar chart presentation?

AFG agrees with the approach in terms of bar chart presentation proposed by CESR. However, we would like to receive more detail on the concept of “average yearly performance”. Indeed, investment management companies usually refer to yearly or annualised performances.

26) Is the methodology easy for UCITS providers to implement?

Yes.

27) Are the proposed technical recommendations in terms of presentation helpful, workable and sufficient?

Yes.

28) Should any other issues be taken into account regarding presentation of past performance?

AFG would like CESR to consider the possibility of presenting past performance for new funds (less than one year) and for funds that have a lifespan shorter than one year.

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<u>Past performance calculation</u>

29) Is the proposed framework on past performance calculation sufficient and appropriate to allow comparability?

Yes.

30) In particular, are the proposed technical recommendations concerning the inclusion of charges and fees, the display of currency, the selection of the NAV date and the treatment of income helpful, workable and sufficient?

Yes, we believe that the proposed technical recommendations concerning the inclusion of charges and fees, the display of currency, the selection of the NAV date and the treatment of income are helpful, workable and sufficient.

31) Do any other issues need to be addressed to achieve a sufficient level of harmonisation?

No.

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<u>Display of past performance and material changes</u>

32) Regarding the display of past performance that occurred prior to a material change, do you think that both options (good practice 1 and good practice 2) should be allowed?

Yes, AFG thinks that both options should be allowed and that the choice between them should be left with the individual investment management companies.

33) Or, for the sake of comparability should only one good practice be retained? If so, which one?

No, as explained above, we do not favour one option over the other and we believe the choice between them should be the investment management companies' decision.

34) Is there a need for harmonised guidelines at a European level concerning the definition of material changes or do you think that that it should be addressed by each Member State at a national level?

Yes, we firmly believe that there is a need for harmonised guidelines at a European level concerning the definition of material changes. Investors should be able to compare funds easily across Member States.

35) Do you see any other issues that should be taken into account as regards the presentation of past performances where there are materiality changes?

AFG proposes to show the exact date of the material event on the bar chart. This would give investors more detail on the time the event occurred and where the performance for the year comes from (i.e. whether the performance reflected by the bar relates more to the period before or after the material event took place).

AFG believes it would be useful to describe the nature of the material event on the bar chart. We would like more detail regarding the disclosures to be posted on the website. We believe information relating to material events should be available elsewhere.

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<u>Inclusion of a benchmark alongside the fund performance</u>

36) Are the conditions identified by CESR, under which inclusion of a benchmark alongside the fund performance could be allowed, sufficient and appropriate? In particular:

i) Do you agree that a UCITS should not be required to display a benchmark unless one is identified in the fund's objectives and strategy? Is it appropriate to permit a benchmark to be displayed in other cases?

Yes, AFG agrees that the inclusion of a benchmark alongside the fund performance should be allowed. This should be **<u>required</u>** when a benchmark is identified in the fund's objectives and strategy but left up to the asset managers when it is not. Benchmarks, in any case, should <u>not</u> be required. It would be dangerous and pro-cyclical to force all our industry to be "benchmarked".

In addition, the use of two or three different benchmarks should be allowed in specific cases.

ii) Is there a need for harmonised guidelines regarding the choice of a benchmark in the 'strategy and objectives' or can this continue to be left to the discretion of each Member State?

This question is not 100% clear, but in principle AFG agrees on the need for harmonised guidelines. We believe that leaving this to the discretion of each Member State would lead to inconsistencies and would not allow investors to compare funds within the EU. But of course the use of benchmarks should not be mandatory, as explained above.

37) Should any other issues be taken into account regarding the inclusion of a benchmark alongside the fund performance?

AFG would like CESR to advise whether it would be beneficial to investors to harmonise the conditions of disclosure of information relating to a change of benchmark (in case the investment management company wishes to change it) or a modification of the benchmark itself (in case the provider alters it).

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<u>Replacement of inexistent past performance by a benchmark</u>

38) Does the proposed recommendation rejecting the use of a benchmark as a proxy for non-existent performance data provide appropriate investor protection?

Yes, we believe that the recommendation rejecting the use of a benchmark as a proxy for non-existent performance data is prudent.

39) To what extent could the lack of inclusion of a benchmark for years in which the fund did not exist hamper the disclosure of the risk and reward profile of the fund?

As it is impossible to know how the fund would have performed compared to the benchmark during the period in which it did not exist, we are in favour of a cautious approach that does not show the performance of the benchmark in replacement of that of the fund.

40) Are there conditions under which such a practice could be allowed without prejudicing investor protection?

Work should continue on this matter, as finding such conditions would indeed be useful.

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<u>Track record extension</u>

41) Has CESR correctly identified all the conditions under which a track record extension could be allowed? In particular:

i) Do you foresee any other situations where a track record extension could be used?

AFG believes a track record extension could also be used in the case of clones.

ii) Is there a need for harmonised guidelines at a European level concerning conditions under which a track record extension could be used?

Yes, we agree that there is a need for harmonised guidelines at a European level concerning conditions under which a track record extension could be used (provided that these conditions include clones). These guidelines will help the distribution of funds across Member States and enhance investors' protection. We would like to advise CESR to assess existing practices in this area implemented by rating agencies.

iii) Regarding new classes of shares of an existing fund or sub-fund, is CESR's approach sufficient and appropriate?

Yes, AFG believes that CESR's approach regarding new classes of shares of an existing fund or sub-fund is sufficient and appropriate.

iv) Regarding feeder funds, what are the merits and limits of each of the two above options? Which one should be retained?

AFG supports option 2. The scope of this option is broader and allows the use of derivatives for hedging purposes. However, AFG would like to highlight the need for harmonised guidelines on the definition of material change.

42) Do you agree with CESR's approach that track record extension should be allowed when a fund changes its legal status in the same Member State? If this were to be addressed by each Member State at a national level, how great a risk is there of divergence and a lack of comparability? Should the approach be more prescriptive in this case? If so, please explain why.

AFG agrees with CESR's approach that track record extension should be allowed when a fund changes its legal status. However, we would like to extend this authorisation to funds that change their nationality within the EU and to funds that are transferred to another Member State.

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<u>Track record extension for fund mergers</u>

43) Has CESR identified the right conditions under which track extension for fund mergers could be allowed?

AFG is in favour of option c) i.e. only the performance of the absorbing fund (if available) is displayed on the graph. In case the performance of the absorbing fund is not available, the graph could show the performance of the absorbed fund.

44) Should any other issues be taken into account regarding track extension for fund mergers?

No.

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Funds for which past performance or a proxy cannot be used

45) Do you agree with the approach proposed by CESR as regards back-testing?

AFG believes that **CESR should not reject as such the use of back-testing**.

- We think a table could be used that shows the results to investors clearly. For instance, it could show how the fund would have behaved in different scenarios (favourable, unfavourable, average conditions).

- More importantly, back-testing relies on actual data, which would be consistent with the rest of the information provided in the KID. Conversely, relying on hypothetical data could be misleading.

- Finally, in order to make the back test reliable, regulators should set strict and precise rules in this matter. For example, when back testing is used, the French regulator approves the back testing methodology at the same time as the fund itself. This experience has proven quite satisfactory.

46) Are you aware of any other merits that might support further consideration of this option?

Please refer to 45) above.

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Prospective scenarios for funds for which past performance or a proxy cannot be used

47) Do you agree that Option B is capable of meeting the Directive requirement for performance scenarios?

As described above, AFG favours the possible use of back-testing. We believe prospective scenarios would not be as beneficial to investors, as prospective scenarios rely on unpredictable data, which could prove misleading. On the other hand, back testing uses actual data.

48) Regarding the graph or table presentation, what are the technical merits and limitations of each option?

Please refer to 47).

49) To what extent does each option provide the investor with the elements needed for an appropriate understanding of how the fund works? Is one option clearer and more comprehensible from the investor's perspective? Is there any technical feature which may be subject to misinterpretation by the investor?

Please refer to 47).

50) Is there a need for a more prescriptive approach to the number and type of scenarios that should be selected in order to ensure appropriate comparability of funds? Should any technical feature be supplemented?

Please refer to 47).

51) Is comparability with the possible risk-free asset return helpful?

Please refer to 47).

52) Is this approach easy for UCITS providers to implement?

Please refer to 47).

53) Should any other issues be taken into account regarding prospective scenarios?

Please refer to 47).

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<u>Probability tables for funds for which past performance or a proxy cannot be used</u>

54) Are the methodological requirements which underpin probability tables sufficient, clear and appropriate?

We believe that the use of performance scenarios based on probability tables (option c) is not relevant. The models used rely on the assumption of market neutral environment, which is not realistic. Moreover, the KID displays actual data, and the use of probabilities would not be consistent with the rest of the document.

55) Would such an approach cover all types of fund for which neither past performance nor a proxy can be used?

Please refer to 54).

56) Is this approach easy for UCITS providers to implement?

Please refer to 54).

57) Should any other issues be taken into account as regards the use of probability tables?

Please refer to 54).

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Chapter 3: CHARGES

AFG recommends in general the use of a **<u>percentage figure</u>** based on ex post data in order to allow a better comparability for investors.

<u>Summary measure of charges</u>

58) Do you think a summary measure of charges would help investors to understand the overall cost of investment in a UCITS?

AFG believes that investors would benefit from having at their disposal a percentage figure showing the overall cost of investment in a UCITS. It would allow them to compare the costs charged by different funds across the Members States. However, AFG does not think investors would really be interested in the breakdown of the various costs affecting the fund.

59) Which presentation would be preferable: using a narrative with a percentage figure or a table of cash figures?

AFG supports the approach using **a percentage figure**, accompanied by a narrative text. A number shown in terms of cash would be difficult to implement and would have to rely on too many assumptions. Most of all, it could be misleading as each individual investor has its own specific characteristics.

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Ex post figure

60) Do you agree that Option 1, using a single ex-post figure, is the best one?

Yes, we agree that option 1 using a single ex-post **audited** figure is the best one.

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Calculation of the charge figure

61) Do you agree with the proposed methodology in Annex B for identifying which items should be included in the ongoing charges figure and for harmonising the calculation?

Yes, AFG believes that the calculation of the charge figure should be harmonised. We need an "all-in" figure that is reliable and comparable across Member States. For instance, front-load fees or exit fees should be explicitly excluded from the calculation.

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Performance fee

62) Do you agree with the proposals to:

i) Show the ongoing fund charges figure excluding performance fees?

Yes.

ii) Explain performance fees through a narrative description?

Yes.

iii) Not show an actual figure for the amount previously charged?

Yes.

63) Do you agree with the proposal to signpost where more detailed information can be found?

Yes.

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Transaction costs

64) Do you agree with the proposal to highlight the potential impact of portfolio transaction costs on returns through a warning in the charges section and, in certain circumstances, the strategy/objectives or risk and reward sections of the KID?

Yes.

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Cost increases

65) Do you agree with the proposal to include this warning?

Yes.

66) Are there circumstances not covered by the proposals which could lead to investors being misled about potential increases in charges?

The impact of fixed costs might increase in certain market conditions, for instance when the assets under management decrease unexpectedly and significantly.

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New funds

67) Have all the relevant issues in estimating an ex-ante ongoing charges figure for a new fund been identified?

For new funds, AFG believes the choice should be left to the investment management companies between a number in cash terms and a percentage figure.

68) Do you agree with the proposed manner of dealing with these issues?

Please refer to 67).

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Material changes in charging structure

69) Do you agree with the proposal to replace an ex-post figure with an estimated ex-ante figure where there are material changes in the charging structure?

In this particular case, AFG agrees to allow using ex-ante figures.

70) Do you agree with the proposed wording to explain the estimated figure?

Yes.

71) Can you suggest how materiality should be defined in the context of changes to the disclosed charges figure?

AFG believes that the concept of materiality should be harmonised in order to ensure a better comparability across the Member States.