

CBFA Proposal KII transition measures

At this moment, the draft texts for the transposition of the KII rules into the Belgian Law and Royal Decree do not yet include provisions pertaining to the transition from the simplified prospectus to the 'Key Investor Information' document.

However, BEAMA has already been given an overview, by way of information, of the principles that are supposed to be applicable in Belgium. These principles are based on the CESR recommendations concerning the "Transition from the Simplified Prospectus to the Key Investor Information document"¹.

a) General approach

The Belgian UCIs will have time until 30 June 2012 to replace their simplified prospectus by the Key Investor Information document.

b) Transition

- i. A promoter [CBFA terminology, whereas CESR uses Management Company] shall be allowed
 - either to begin providing Key Investor Information for all of his existing UCIs simultaneously or
 - to phase the introduction of Key Investor Information for all of his existing UCIs during the transitional period, for each UCI taken separately.

Promoters will be asked to provide CBFA with their schedule for the introduction of the Key Investor Information during the month of April. In this schedule, priority should be given by the promoters to UCITS above non-harmonised UCIs.

- ii. For new UCIs authorised after 30 June 2011, the KII should be prepared from the outset.
- iii. New investment compartments added, after 30 June 2011, to an umbrella UCI already existing on 30 June 2011, may choose – depending on the schedule they have proposed – whether to provide a simplified prospectus or Key Investor Information.
- iv. New share classes added, after 30 June 2011, to a UCI already existing on 30 June 2011 or to one of its compartments, will be treated in the same way as the existing share classes of this UCI or compartment. Consequently, Key Investor Information will be prepared, for a new share class, if this is already the case for the existing share classes. If no Key Investor Information is prepared as yet, the information concerning the new share class will be included into the simplified prospectus.
- v. As long as a UCI or compartment offers a simplified prospectus all through the transitional period, the simplified prospectus can be the subject of one or several revisions. Such revisions may include the addition of elements of Key Investor Information into the simplified prospectus.

¹ <http://www.esma.europa.eu/popup2.php?id=7334>

c) Special circumstances

- i. **Scenario 1:** A UCITS markets its shares in a Member State which is different from its home Member State.

In scenario (1), the UCITS must provide the investors in the host Member State with the same kind of document (i.e. simplified prospectus or KII) as that provided to the investors in the home Member State, in order to comply with articles 93, (2), (b) and 94, (1), (b) of the UCITS IV Directive.

- ii. **Scenario 2:** A UCI involved in a process of restructuring as receiving UCI, will continue to provide the simplified prospectus during the transitional period.

The rule governing restructuring provides that UCIs involved in the process of restructuring must provide all of their participants with an information document that specifies among other things the Key Investor Information for the receiving UCI. In scenario (2), this requirement will be met, if the information document contains the simplified prospectus of the receiving UCI.

- iii. **Scenario 3:** Establishment of a master-feeder structure during the transitional period.

In scenario (3), there is a possibility that the master and/or feeder continues to provide the simplified prospectus during the transitional period. There still is a choice whether to prepare a simplified prospectus or a document containing Key Investor Information. This does not affect the general rule according to which new UCIs (being either masters or feeders) must provide the KII as of the moment when the establishment has taken place.

In that case, there is a possibility that the master provides a simplified prospectus and the feeder a KII (or vice versa); this explains why it is recommended for the UCIs concerned to try to provide the same type of document, wherever possible.

d) Exception as for non-harmonised UCIs

Existing compartments with a specific term of maturity that have cancelled the right of free access, do not have the obligation to replace their simplified prospectus by Key Investor Information, be it only for compartments of non-harmonised UCIs.