

COMMENT LETTER

May 22, 2007

ICI Letter to the Committee of European Securities Regulators on a Proposed Replacement for the UCITS Simplified Prospectus (pdf)

DRAFT of 5/21/07 For Discussion Purposes Only May 22, 2007 Fabrice Demarigny The Committee of European Securities Regulators 11-13 avenue de Friedland 75008 Paris FRANCE Re: CESR/07-241 – Key Investor Disclosures for UCITS CESR/07-214 – Questionnaire on Simplified Prospectus for Retail Investors Dear Mr. Demarigny: The Investment Company Institute (ICI)¹ strongly supports the European Commission’s ongoing disclosure review and its proposal to replace the existing UCITS simplified prospectus with short, meaningful explanations of the risks and costs associated with investments in a UCITS fund. We also support the adoption of legally binding implementing measures for the revised UCITS Directive to harmonize key investor disclosure requirements across the EU. We urge CESR and the Commission to standardize the methodology for computing fund performance in order to provide comparability of fund advertising and disclosure material.² To help further inform your deliberations, we submit for your consideration important ICI research on the information preferences of mutual fund investors. ICI Research on Investor Preferences for Mutual Fund Information ICI’s recommendations for effective disclosure to fund investors derive from extensive research on investor information preferences. As part of its ongoing investor research program, the ICI undertook a comprehensive study in February 2006 to identify the information needs of mutual fund investors. 1 The ICI is the national association of the United States investment company industry. The ICI seeks to encourage adherence to high ethical standards, promote public understanding, and otherwise advance the interests of funds, their shareholders, directors, and advisers. Institute members include 8,826 open-end investment companies (mutual funds), 666 closed-end investment companies, 398 exchange-traded funds, and 4 sponsors of unit investment trusts. Mutual fund members of the Institute have total assets of approximately \$10.634 trillion (representing 98 percent of all assets of U.S. mutual funds); these funds serve approximately 93.9 million shareholders in more than 53.8 million households 2 The ICI previously recommended that the Commission adopt a standardized performance methodology for UCITS fund disclosure. See Letter to the European Commission from Robert C. Grohowski, Senior Counsel, Investment Company Institute (dated Nov. 15, 2005), available at www.ici.org/statements/cmltr/05_eu_ucits_com.html. Mr. Fabrice Demarigny May 22, 2007 Page 2 of 4 investors and the sources from which they obtain that information.³ The ICI engaged an independent research firm to conduct in-home interviews with 737 randomly selected fund owners who had purchased shares in stock, bond, or hybrid mutual funds

outside workplace retirement plans in the preceding five years. Although our research involved U.S. investors and U.S. mutual funds, many of the lessons may also be instructive in examining appropriate investor disclosures for UCITS funds. Our key findings are set out below:

- Investors consider a wide range of information before purchasing mutual fund shares outside workplace retirement plans. Investors most often want to know about a fund's fees and expenses and historical performance before purchasing shares, but, for example, rarely review or ask questions about a fund's portfolio manager. Other information that investors usually consider includes fund risks, fund price per share, and the types of securities held by the fund.
- Investors consult a variety of sources for fund information before and after purchasing shares, and one of these sources is usually a professional financial adviser. Fund shareholders primarily turn to advisers for assistance in understanding and interpreting fund information.
- Shareholders look for concise investment information and, where possible, graphic presentations. Most shareholders do not consult fund prospectuses because they find them too long and difficult to understand. Shareholders prefer graphics and charts to narrative descriptions, and this preference is especially strong among shareholders who generally do not read (or read very little of) the prospectuses they receive.
- Shareholders embrace the Internet. Regardless of their age, a majority of recent fund investors regularly go online and use the Internet for a variety of financial purposes. Shareholders use the Internet to manage their finances, gather investment information, and monitor their fund portfolios. Consequently, the Internet has great potential for more effectively communicating fund information to investors.

4 Recommendations Based on these findings, we believe that effective shareholder disclosure should be clear and concise. Disclosure documents should be provided to all investors either electronically or in paper.

3 See Investment Company Institute, *Understanding Investor Preferences for Mutual Fund Information* (Aug. 2006), available at www.ici.org/stats/res/rpt_06_inv_prefs_full.pdf. A copy of the research report is appended to this submission.

4 The ICI conducts ongoing surveys of investor use of the Internet. For the most recent published results, see Investment Company Institute, *Research Fundamentals: Ownership of Mutual Funds and Use of the Internet*, 2006 (Oct. 2006), available at www.ici.org/stats/res/fm-v15n6.pdf.

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Investors also should be prominently advised that additional, more detailed information (that is, the fund prospectus in the context of UCITS) is available electronically and, upon request, on paper. The ICI has urged the U.S. Securities and Exchange Commission to craft disclosure rules based on these principles. The Internet is an effective way to provide investors with timely and convenient access to required information without imposing inappropriate costs and burdens on the sale of fund shares. We encourage CESR to recommend that the European Commission's new disclosure rules allow investors to elect to rely principally on the Internet to receive required disclosure from funds and intermediaries.

Harmonization of Fund Information and the Importance of Standardized Performance

The Need for Harmonization

We agree with the Commission that to create a true cross-border market for UCITS funds, it is essential for consumers to be able to compare the UCITS disclosures of different firms and those sold cross-border from other EU Member States. Harmonized requirements and standardized methodology for presenting key investor information such as fund fees,⁵ historical performance, investment policy, and other information deemed most useful to investors would do much to promote a pan-European market for UCITS funds and is in fact necessary for such a market to function efficiently. The guiding principles elaborated in the Commission's request for assistance from CESR would, if implemented, largely achieve this objective by adopting comparable content and format standards across the EU and allowing for EU-wide use of disclosure without further modification or approval.

Suggestions for a Standardized Performance Methodology

One of the most important components of harmonized disclosure is

standardized fund performance, which prevents performance information from being misleading and permits investors to make meaningful comparisons of fund performance. In the United States, mutual fund investors have had access to reliable and comparable performance information since the 1980s.⁶ The importance of standardized performance information was also recognized by IOSCO when the Technical Committee published its best practices paper on performance presentation standards in May 2004.⁷ 5 In the United States, fund fees and expenses are required to be presented in a harmonized format using (1) a table that discloses fund fees in percentage terms and (2) a fee example that demonstrates the dollar cost of these fees with respect to a hypothetical investment. See U.S. Securities and Exchange Commission Form N-1A, Item 3, available at www.sec.gov/about/forms/formn-1a.pdf. 6 The U.S. Securities and Exchange Commission adopted rules standardizing performance figures for money market funds in 1980 and for other types of funds in 1988. The total return calculation used in the United States is found in Item 21 of Form N-1A. 7 See IOSCO Technical Committee Report, Performance Presentation Standards for Collective Investment Schemes: Best Practice Standards (May 2004), available at www.iosco.org/library/pubdocs/pdf/IOSCOPD169.pdf. Mr. Fabrice Demarigny May 22, 2007 Page 4 of 4 We strongly recommend to CESR and the Commission that UCITS funds be required to provide performance information using a standardized methodology with respect to computation, currentness, and disclosure. We recommend that this standardized methodology be based on total return, which is the sum of all fund earnings plus any changes in value of assets reduced by all expenses accrued during a measuring period. This figure is not affected by whether investment growth derives from income or capital appreciation or when income is distributed. Total return should be computed over a sufficiently long period of time to provide a picture of fund performance over a business cycle, typically ten years. We suggest that the Commission require the presentation of performance over several periods—for example, average annual total return for one, five, and ten years—rather than solely aggregate total return over ten years. A single figure aggregating return over ten years produces large numbers that are not comparable with returns on other financial instruments that are measured on an annual basis. Presenting average annual returns over various periods permits investors to see fluctuations in performance. The presentation of historical performance over various periods also helps investors appreciate that mutual fund performance quotations indicate past performance and not a promised return. Finally, to prevent investor confusion about fund performance claims and, in particular, to ensure that investors do not think that these figures represent a promised return, required key investor disclosures and other UCITS documents that include performance information should disclose that these figures represent historical performance only. As suggested by the Commission, disclosure should also clearly communicate whether return of initial capital is guaranteed or the capital is at risk and that the value of an investment in the fund will fluctuate. * * * * We would welcome the opportunity to speak with you in more detail about ICI investor research or our recommendations about harmonization of key investor disclosures and the development of a standardized performance methodology. If we can provide any other information, please feel free to contact me at solson@ici.org or +1 202.326-5813. Sincerely, /s/ Susan M. Olson Susan M. Olson Senior Counsel, International Affairs