

Chapter 4

Investor Relations

4.7 Key investor information and marketing communications

Application

4.7.1 **R** This section applies to an *ICVC*, an *authorised fund manager* of an *AUT*, *ACS* or *ICVC* and any other *director* of an *ICVC* where, in each case, the *AUT*, *ACS* or *ICVC* is:

- (1) a *UCITS scheme*; or
- (2) a *non-UCITS retail scheme* that is offered to *retail clients* if the *authorised fund manager* or *ICVC* draws up a *NURS-KII document* instead of a *key information document* for the *scheme*.

Application of the PRIIPs regulation to NURS

- 4.7.1A** **G**
- (1) An *authorised fund manager* of a *non-UCITS retail scheme* or an *ICVC* that is a *non-UCITS retail scheme* that is offered to *retail clients* may draw up either:
 - (a) a *key information document* in accordance with the *PRIIPs Regulation*; or
 - (b) until 31 December 2019, a *NURS-KII document* (in accordance with the exemption in article 32(2) of the *PRIIPs Regulation*).
 - (2) An *authorised fund manager* of a *KII-compliant NURS* or an *ICVC* that is a *KII-compliant NURS* will need to comply with ■ COLL Appendix 2R (Modifications to the *KII Regulation* for *KII-compliant NURS*), which contains a modified version of the *KII Regulation* for *KII-compliant NURS* (see ■ COLL 4.7.3AR).
 - (3)
 - (a) An *authorised fund manager* of a *KII-compliant NURS* or an *ICVC* that is a *non-UCITS retail scheme* that is offered to *professional clients* only is not required to comply with the *PRIIPs Regulation* or draw up a *NURS-KII document*.
 - (b) However, these *documents* may be used to market the *non-UCITS retail scheme* to *professional clients*.

Key investor information

- 4.7.2** **R**
- (1) An *authorised fund manager* must draw up a short document in English containing *key investor information* for investors:
 - (a) in each *UCITS scheme* which it manages (a *key investor information document*); and

- (b) in each *KII-compliant NURS* which it manages (a *NURS-KII document*).
- (2) The words "key investor information" must be clearly stated in the *key investor information document* and *NURS-KII document*.
- (3) *Key investor information* must include appropriate information about the essential characteristics of the *UCITS scheme* or *KII-compliant NURS* which is to be provided to investors so that they are reasonably able to understand the nature and risks of the investment product that is being offered to them and, therefore, to take investment decisions on an informed basis.
- (4) *Key investor information* must provide information on the following essential elements in respect of the *UCITS scheme* or *KII-compliant NURS*:
 - (a) identification of the *scheme* and that the *FCA* is the *competent authority* of the *scheme*;
 - (b) a short description of its investment objectives and investment policy;
 - (c) past performance presentation or, where relevant, performance scenarios;
 - (d) costs and associated charges; and
 - (e) risk/reward profile of the investment, including appropriate guidance and warnings in relation to the risks associated with investments in the *scheme*.
- (5) The essential elements referred to in (4) must be comprehensible to the investor without any reference to other documents.
- (6) A *key investor information document* or *NURS-KII document* must clearly specify where and how to obtain additional information relating to the proposed investment, including but not limited to where and how the prospectus and the annual and half-yearly reports can be obtained on request and free of charge at any time, and the language in which that information is available to investors.
- (6A) A *key investor information document* must also include:
 - (a) a statement that the details of the up-to-date *remuneration* policy are available by means of a website, including, but not limited to, the following:
 - (i) a description of how *remuneration* and benefits are calculated; and
 - (ii) the identities of persons responsible for awarding the *remuneration* and benefits, including the composition of the *remuneration* committee, where such a committee exists; and
 - (b) a reference to that website, and that a paper copy of the website information will be made available free of charge upon request.
- (6B) A *NURS-KII document* must also include a statement that the details of the up-to-date *remuneration* policy will be made available free of charge upon request, including the following:

- (a) a description of how *remuneration* and benefits are calculated; and
 - (b) the identities of persons responsible for awarding the *remuneration* and benefits, including the composition of the *remuneration* committee, where such a committee exists.
- (7) *Key investor information* must be written in a concise manner and in non-technical language. It must be drawn up in a common format, allowing for comparison, and must be presented in a way that is likely to be understood by retail investors.
- (8) *Key investor information* for a *UCITS* scheme must be used without alterations or supplements, except translation, in each *EEA State* where a *UCITS marketing notification* has been made so as to enable the *marketing* of the *scheme's units* in that State.

[Note: article 78 of the *UCITS Directive*]

Form and content of a key investor information document

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The *KII Regulation* sets out the form and content of a *key investor information document*. This Regulation is directly applicable in the *United Kingdom* and accordingly its articles (but not the preceding recitals) are binding on all *firms* to which it applies. Under the Regulation an *authorised fund manager* must ensure that each *key investor information document* it produces for a *UCITS* scheme complies with the requirements of the Regulation. For ease of reference the Regulation is reproduced in ■ COLL Appendix 1EU (The *KII Regulation*).

Form and content of a NURS-KII document

4.7.3A

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The following must comply with ■ COLL Appendix 2R (Modifications to the *KII Regulation* for *KII-compliant NURS*), which contains a modified version of the *KII Regulation* for *KII-compliant NURS*, when producing a *NURS-KII document*:

- (1) an *authorised fund manager* of a *KII-compliant NURS*; and
- (2) an *ICVC* that is a *KII-compliant NURS*.

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Feeder NURS that produce a key information document

4.7.3C

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The *authorised fund manager* of a *feeder NURS*, or an *ICVC* that is a *feeder NURS*, that draws up a *key information document* for a *retail client*, should cross refer to documents related to its *qualifying master scheme* which enable such clients to understand the *qualifying master scheme's* key particulars including:

- (1) its investment strategy;
- (2) a description and explanation of any material differences between the risk profile of the *feeder NURS* and that of the *qualifying master scheme*; and

- (3) its charges, including the aggregate of the charges of the *feeder NURS* and its *qualifying master scheme* as disclosed in the *feeder NURS'* most up to date *prospectus*.

[Note: article 6(2) of the *PRIPs Regulation*]

Translation of a key investor information document

- 4.7.4 **G** While the original *key investor information document* or *NURS-KII document* is required by ■ COLL 4.7.2 R to be drawn up in English, an *authorised fund manager* may prepare an accurate translation of it into any language for the purpose of *marketing the units of the UCITS scheme* or *KII-compliant NURS* in the *United Kingdom*. Any such translation should be prepared without alterations or supplements.

Pre-contractual information

- 4.7.5 **R** The *key investor information document* and the *NURS-KII document* must:
- (1) constitute pre-contractual information (see ■ COBS 14.2.1A R (Provision of key investor information document or NURS-KII document));
 - (2) be fair, clear and not misleading; and
 - (3) be consistent with the relevant parts of the *prospectus*.

[Note: article 79(1) of the *UCITS Directive*]

- 4.7.6 **G**
- (1) Section 90ZA of the *Act* (Liability for key investor information) provides that a *person* will not incur civil liability solely on the basis of the *key investor information document*, including any translation of it, unless it is misleading, inaccurate or inconsistent with the relevant parts of the *prospectus*.
 - (2) Article 20 of the *KII Regulation* prescribes the wording of a warning to investors that must be included in the "practical information" section of the *key investor information document*. It states that an *authorised fund manager* may be held liable solely on the basis of any statement contained in the document that is misleading, inaccurate or inconsistent with the relevant parts of the *prospectus* for the *UCITS scheme*.
 - (3) A *NURS-KII document* should not include the wording of warning to investors in (2) as the limitation of liability in (1) does not apply to *KII-compliant NURS*.

Revision and filing of key investor information or key information document or NURS-KII document

- 4.7.7 **R**
- (1) An *authorised fund manager* must keep up to date the essential elements of:
 - (a) the *key investor information document* for each *UCITS scheme* which it manages; or

(b) the *NURS-KII document* for each *KII-compliant NURS* which it manages.

- (2) An *authorised fund manager* must file the *key investor information document* for each *UCITS scheme* or the *NURS-KII document* for each *KII-compliant NURS* which it manages, and any amendments thereto, with the *FCA*.
- (3) An *authorised fund manager* of a *feeder UCITS* or *feeder NURS* must, in addition to (1) and (2), file the *key investor information* of its *master UCITS* or the *NURS-KII document* of its *qualifying master scheme*, and any amendments thereto, with the *FCA*.

[Note: articles 63(3) and 82 of the *UCITS Directive*]

Synthetic risk and reward indicators and ongoing charges disclosures in the KII

4.7.8

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- (1) *Authorised fund managers* are advised that CESR issued two separate guidelines regarding the methodology that should be used in calculating the *synthetic risk and reward indicator* and the ongoing charges figure, both of which must be disclosed in the *key investor information document* for each *UCITS scheme* which they manage.
- (2) In line with the *KII Regulation* and ■ COLL Appendix 2R, firms in producing their *key investor information documents* or *NURS-KII documents* should take account of CESR's methodologies in calculating the figures for the *synthetic risk and reward indicators* and for ongoing charges to be disclosed in those documents. For ease of reference links to these guidelines are shown below, as follows:

Methodology for the calculation of the synthetic risk and reward indicator in the KII (CESR/10-673)

https://www.esma.europa.eu/sites/default/files/library/2015/11/10_673.pdf

Methodology for the calculation of the ongoing charges figure in the KII (CESR/10-674)

https://www.esma.europa.eu/sites/default/files/library/2015/11/10_674.pdf

- (3) *Firms* should note that these methodologies may in due course become directly applicable obligations in the light of the European Securities and Markets Authority's powers to develop implementing technical standards in this area.

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Authorised fund managers of a *UCITS scheme* and *KII-compliant NURS* are further advised that *ESMA* has issued the following guidelines, which refer to matters that should be included in the *key investor information* for certain types of *UCITS* (ESMA 2012/832).

Guidelines for competent authorities and *UCITS* management companies:
Guidelines on *ETFs* and other *UCITS* issues

https://www.esma.europa.eu/sites/default/files/library/2015/11/2012-832en_guidelines_on_etfs_and_other_ucits_issues.pdf

Marketing communications.....

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COBS 4.13.2R(1)(b) and (c) (Marketing communications relating to UCITS schemes or EEA UCITS schemes) require an *authorised fund manager* to ensure that its marketing communications that contain an invitation to purchase *units* in a *UCITS scheme* or *EEA UCITS scheme*, indicate that a *prospectus* and *key investor information* exist, specifying where they may be obtained by the public or how the public may have access to them.