

Response to the Report of the Expert Group on Investment Fund Market Efficiency

We are grateful for the opportunity, albeit brief over the holiday period, to comment on the report of the expert group on Market Efficiency. We will not attempt to cover all issues but will concentrate on those that seem most important to consumers.

Authorisation and notification

We welcome moves to open the national markets within Europe to products from other member states and we would not have any objections to the introduction of time limits on authorisation. The limit would of course require the regulator to come to a decision, not as the expert group appears to say, to approve the application. We do not know what the appropriate limit would be: that will need input from regulators and perhaps CESR. The limits suggested are perhaps a bit short, given the need to ensure that consumer protection is not jeopardised.

We support the idea of notification being a regulator to regulator activity with strict time limits, and a very limited role for the host regulator. Again the precise limits need regulators input, but it should be brief.

Simplified prospectus

We welcome the work that the Commission already has under way on the simplified prospectus. We strongly disagree with the expert group when they argue that when deciding whether civil liability should attach to a defective simplified prospectus, that prospectus should be read with the full prospectus. The simplified prospectus is already a difficult document for consumers to understand. That may improve as a result of the on-going work, but to then argue that consumers right to redress for a defective simplified prospectus could be removed because of an incomprehensible full prospectus that they never see is unacceptable.

Mergers

So far as UCITS regulation is concerned, we are relaxed about facilitating mergers domestically and across borders, so long as consumers rights are protected. But we would be very alarmed if cross border mergers could trigger adverse tax consequences for consumers. So, if there is to be legislation to facilitate mergers, it should be accompanied by a taxation directive protecting consumers from adverse consequences.

So far as protecting consumer rights in a merger are concerned, that would require careful study but we tend to think that there should be votes of unit holders, and on a point of detail, the summary prospectus of the receiving fund should be provided, not simply offered to all consumer concerned. We do however support the right of a consumer to exit a merged fund without penalty.

Pooling

We hope that we are not alone in finding the concepts involved in pooling very hard to follow. At a very high level of generality, we do not object to them in principle, provided that these techniques are fully compatible with the structural features of UCITS such as investment limits which are an important consumer protection.

Management company passport

We are happy with the idea of a management company passport.

Depositary freedoms

We are very wary of any idea of a depositary passport, as are the Expert Group. To be frankly parochial, we believe that the UK approach, such as independence, high capital adequacy and a wide range of duties is one of the key consumer protections. We would want to see these standards becoming the norm, and in no way watered down. Until this is done, facilitating the single market carries significant risks to for example UK consumers and we would urge action to tighten the depositary regime as a key priority.

We hope that these brief comments are helpful.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'J. Howard', written in a cursive style.

John Howard
Chairman

5 September 2006