

Spain expands KIIDs to cover non UCITS funds

Spain's National Securities Exchange ("CNMV") has recently issued a Circular (2/2013) of 9 May 2013. The main changes relating to KIIDs (for Spanish domiciled funds only) are:

- Extending the obligation to issue a KIID to all Collective Investment Schemes which are not considered to be UCITS (non-harmonised CIS).
- Providing certain exceptions and adjustments to the content and form of the document for certain types of non-harmonised UCITS (including property funds and hedge funds) in order to adapt it to the characteristics of this type of CIS. These changes mainly relate to the Risk and Reward section.

The Circular came into force on 25 May 2013 and gives transitory rules for its implementation with a number of specific deadlines. Please note this only applies to Spanish Domiciled funds. This is a broad summary and further information can be obtained at CNMV's website.

KIID Requirements for UCITS ETFs and Trackers

ESMA's consolidated Guidelines on ETFs and other UCITS issues came into force on 18 February 2013. Although the majority of groups need not make any KIID changes until 2014, we are aware that these guidelines received little fanfare and therefore thought it would be helpful to remind clients of their impact on KIIDs.

The Guidelines introduced a number of new substantive requirements for UCITS ETFs and other UCITS index-tracking funds such as in the use of efficient portfolio management techniques and OTC derivatives. However, they also introduced disclosure and documentation requirements, primarily for prospectus and managers reports, but also for KIIDs.

UCITS' KIIDs are required by the Guidelines to include the following disclosures:

Index-Tracking UCITS and Index-Tracking Leveraged UCITS

Index-tracking UCITS and Index-tracking leveraged UCITS must include in their KIID a summary of the disclosures within the prospectus on the method used for tracking the index and its impact in terms of exposure to the underlying index and counterparty risk.

UCITS ETFs

- UCITS ETFs must include in their KIID: the identifier "UCITS ETF", and information on the policy regarding portfolio transparency, where information on the portfolio may be obtained and where the indicative NAV is published.

- Actively managed UCITS ETFs must include in their KIID a specific disclosure that they are actively managed, and how they will meet the investment policy, including where applicable their intention to outperform an index.

Transition

Generally UCITS established prior to 18 February 2013 have until 18 February 2014 to comply with the Guidelines' requirements although there are a few exceptions. Most notably if the KIID, or the name of a UCITS ETF, is being amended for any other reason then the KIID should also be amended to comply with the above. Naturally groups still have to keep within the plain language KIID regulations.

Please note this is a broad summary of the guidelines in their relation to KIIDs. The ESMA document can be found at: <http://www.esma.europa.eu/content/Guidelines-ETFs-and-other-UCITS-issues>.

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