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**UCITSIII in Europa:
Ein Praxisbericht**

Frankfurt
Zürich
London
Dublin
Paris
Luxemburg
New York



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Or: A tale of 3 Irishmen...

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Who are we?

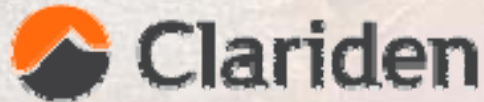
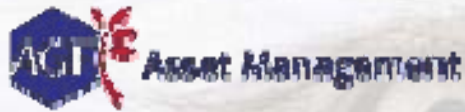
- Aquin is a worldwide group providing software & consulting solutions since 1993.
- Presence in each of Europe's major finance centers
- Blue-chip client base incl. the world's leading financial institutions
- Aquin group has become one of Europe's leading solutions providers for the Asset Management and Funds Industry.
- Core competencies:
Investment Compliance, Order Management and Regulatory reporting

PROFIL



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AQUIN References (Extract)



STATE STREET



REFERENCES



Background: UCITS I

- December 1985: Directive 85/611/EEC
- ➔ Undertaking for Collective Investment in Transferable Securities
“**UCITS I**” (Aka: OGAW)

Objectives:

- Facilitate the x-border offer of investment funds (“Europe Passport”)
- Protect investors by limiting fund risks through strict rules

Problems:

- Lack of product coverage (Only “Transferable Securities”)
- Derivatives only for hedging



Irish Man #1: Pat Cox



Pat Cox,
President EU Parliament (2002-2004)



Background: UCITS III

- January 2002:
Directive 2001/107/EC (“Management Company Directive”)
Directive 2001/108/EC (“Product Directive”) → **UCITS III**

Objectives:

- Increase product spectrum (Derivatives, Money Market)
- Allow funds to copy a known index
- Improve cross border issues, Management Passport
- Introduce requirement of Simplified Prospectus

Problems:

- Passporting of Funds across EU
- Cross Border Fund Pooling and Fund Mergers
- Confusion about Derivatives & Simplified Prospectus



Irish Man #2: Charlie McCreevy



Charlie McCreevy,
European Commissioner for Internal Market & Services
(2004 -)



“... , we need to take fresh look at asset management. ...the current single market framework for investment funds is in need of considerable improvement.
To be honest, it's a bit of an old banger. “

-- European Commissioner for Internal Market & Services, Mr. Charlie McCreevy
(Addressing CESR in December 2004)



Irish Man #3: Niall Bohan



(Not) Niall Bohan,
Head of Unit Asset Management
European Commission


**Background: Green Paper (2)**

- July 2005: “Green Paper”, on the enhancement of the EU Framework for Investment Funds.

“[The UCITS legislation] does not allow the full potential of the fund industry to be optimised on a pan-European level. Nor does it have the flexibility needed to cope with the challenges posed by rapidly evolving financial markets.”

Objectives:

- Address most important unresolved issues in UCITSIII:
 - Fund grandfathering.
 - Simplify notification for passporting funds.
 - Clarify derivatives, eligible assets & SP issues.
- Open review 13th October 2005 in Brussels.



„The compliance function has been elevated from its stuffy, paper-shuffling image and is now seen as a vital contributor to a company's bottom line. Top compliance officers have been pursued as keenly as star portfolio managers“

Source: Global Investor Magazine, October 2005



Where do we stand? (2)

- End 2004: 28,830 UCITS funds with a total AUM of €4.1 Trillion
 - Of which 4529 X-border funds
- Cross border registration
 - Can take up to 100 days
 - Costs the industry €25 mil./year (+ €20 mil. initial registration)
 - Opportunity costs even higher
- Ca. 50% of fund distributors do not offer Third Party Funds
- European funds are 5 times smaller than in USA
 - Urgent need for cross border fund mergers and fund pooling



Where do we stand? (3)

- Eligible Assets still not clear
- Risk from substitute products: Life insurance, certificates, structured products etc.
- Regulatory Arbitrage due to divergent implementations.
 - Hedge funds
 - Derivative handling (e.g. difference between DE & Lux.)
- Reputational Risk is still the main concern in Asset Management



Where do we stand? (3)

- Divergent implementations across Europe is still a huge problem

Table 1: Information required at initial registration

Directive requirements					Additional requirements not stipulated in the directive	Translation requirements
Country	Attestation	Fund rules or instruments of incorporation	Annual report and subsequent half-yearly report	Marketing arrangements		
EEA	No	Yes	Yes	Yes	Additional information for Austrian investors. Paying agent required.	German
Austria						
Belgium	Yes, and in the case of sub-fund registration, home regulator letter approving new sub-fund.	Yes, updated prospectus. Articles of incorporation, only for first time registration or once updated.	Yes	Only for initial country registration.	Annexes belge (with grilles tarifaires). For new sub-fund registrations, updated Belgian prospectus addendum. Paying agent required.	French, German or Dutch. When update for fund rules and instruments of incorporation, English version notarised with apostille.
Finland	No	Yes, 2 copies in Swedish and 1 notarised English version	Yes	Yes	Declaration of changes (signed by 1 director).	Finnish or Swedish. For fund rules or instruments of incorporation, 2 copies in Swedish and 1 notarised English version.
France	Yes, and in the case of sub-fund registration, home regulator letter approving new sub-fund.	Yes, updated prospectus.	Yes	Only for initial country registration, plus fiche d'information for each fund.	French addendum. For new sub-fund registrations, certification of accuracy of information contained in prospectus signed by 2 directors, updated French addendum, representation agent confirmation letter ("correspondant	French

Registration requirements (Source: EFAMA)

Will countries allow the passport of:	Austria	Belgium	France*	Germany	Italy	Ireland
Ucits III funds managed by Grandfathered Manco	😊	😊	😊	😊	?	😊
Ucits 1 sub-funds created in GF Ucits 1 funds after 13/02/2004	😊	😞	😞	😞	?	😊
Ucits 3 sub-funds created after 13/02/2004 in Irish GF UCITS 1 funds	😊	😞	😞	😞	?	N/A

Grandfathering (Source: PWC)

Is the following information required for local simplified prospectus?	AT	BE	DE	DK	ES	FR	IR	IT	LU
(1) Total Expense Ratio	Y	Y	Y	Y	Y	Y	Y	Y	N
(2) Audited Total Expense Ratio	N	N	N	N	N	Y	Y	N	N
(3) Portfolio Turnover Rate	Y	Y	Y	Y	Y	Y	Y	Y	N
(4) Fee-sharing	Y ¹	Y	Y ¹	N	N	Y	N	N	N
(5) Soft commission	Y ¹	Y	Y ¹	N	N	Y	Y	N	N

Simplified Prospectus requirements (Source: PWC)



Where do we stand? (4): Operational Risks facing Asset Managers

Impact	Likelihood	Risk
1	1	Breach of client guidelines
2	2	Misdealing
3	4	Unit trust mispricing
4	10	Taking on new business
5	11	Fraud
6	13	Failure to meet guarantees
7	7	IT systems failure
8	5	Failure to reconcile assets
9	8	Failure to achieve best execution
10	9	Counterparty failure
11	3	Settlement problems
12	6	Failure to collect all income
13	14	Financial insolvency
14	12	Stocklending failures

SITUATION

Source: OXERA Report on Risks and Regulation in European Asset Management



Operational Demands (1)

- Need for highly flexible IT Systems will become more important
 - New products
 - New data items (e.g. Issuer Group)
 - Rapidly changing limits
- ➔ Old fashioned “Hard coded” systems are not suitable
- Need for wider scope of data
 - Fund accounting system no longer provides all data needed
 - Open interfaces to Risk Tools (VaR)
- ➔ Need for open architecture and data hubs



Operational Demands (2)

- Simplified Prospectus
 - TER (Total Expense Ratio)
 - PTR (Portfolio Turnover Rate)
 - Historic performance (Some countries 3 yrs, some 10 yrs)
- ➔ Data warehousing and powerful reporting capabilities are more important than ever
- Fund processing
 - ISO 20022 (UNIFI)
- ➔ Move towards STP vital



Near future

- Recommendations on derivatives and SP (end 2005)
- Transition to UCITS III funds (February 2006)
- Clarification of UCITS eligible assets (April 2006)
- Notification procedure guidelines from CESR (autumn 2006)

Longer term

- Regulation of alternative investments?
- Free choice of depositary?
- Move towards Lamfalussy approach?
- More risk based limits rather than arbitrary limits?
- More self-regulation?



Ihr Ansprechpartner

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