European Securities and Markets Authority

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PRESS RELEASE

ESMA sets out guidelines on risk measurement and the calculation of global exposure for certain types of structured UCITS

ESMA publishes today the final report on the guidelines on risk measurement and the calculation of the global exposure for certain types of structured UCITS (ESMA/2011/112). The report contains the policy approach agreed by ESMA, the cost-benefit analysis, the feedback from the public consultation and the draft guidelines in English to be addressed to competent authorities and UCITS management companies.

The final version of the guidelines (which will be unchanged) will be translated into all the European Union languages and will be available at a later stage on the ESMA website. The guidelines will take effect when this translation process is completed and will accompany the Level 2 implementing measures of the UCITS Directive that take effect on 1 July 2011. The report published today will nevertheless help UCITS management companies and national competent authorities prepare in a timely manner.

The purpose of the guidelines is to propose, for certain types of structured UCITS, an optional regime for the calculation of the global exposure. The specific approach adopted by ESMA consists of the calculation, for each scenario to which investors can be exposed at any one time, of the global exposure using the commitment approach. Under this approach, each scenario must comply at all times with the 100% global exposure limit.

The guidelines, when they take effect, will supplement the guidelines published by the Committee of European Securities Regulators (CESR) in July last year on Risk Measurement and the Calculation of the Global Exposure and Counterparty Risk for UCITS (Ref. CESR/10-788).

ESMA considers that the scope of this alternative approach must be clearly defined. Therefore, a list of all the criteria with which structured UCITS should comply in order to be able to benefit from this specific approach is set out in Guideline 1 of the report. A number of examples have also been included to illustrate how the optional regime should be applied in practice. Guideline 2 in the report, meanwhile, sets out additional disclosure obligations on UCITS that make use of the optional regime.

Notes for editors

1. In October 2009, CESR provided technical advice to the European Commission on Part I of the mandate dealing with Level 2 measures related to the UCITS management company passport (Ref. CESR/09-963). This advice included proposed Level 2 measures for the calculation of UCITS global exposure. The advice also recommended that certain implementing measures dealing with the calculation of global exposure be accompanied by Level 3 Guidelines.

2. Therefore, CESR published a consultation paper setting out its proposed guidelines for Risk Measurement and the Calculation of Global Exposure and Counterparty Risk for UCITS (Ref. CESR/10-108) on 19 April 2010 and published the final guidelines on 28 July 2010. During the consultation period, CESR sought stakeholders' views on the necessity of having an alternative approach for the global exposure for certain types of structured UCITS. The feedback from the public consultation resulted in a general request to develop such a methodology. Therefore, in order to be able to take into account fully the feedback from the public consultation on this issue, CESR committed itself to carry out further work to assess whether it would be appropriate for certain types of structured UCITS to use other methodologies to calculate the global exposure.

3. In order to carry out this work, CESR hosted a workshop with industry representatives in September 2010. Taking into account the discussion with industry representatives and further reflection on this issue, CESR came to the conclusion that a specific regime per se for the calculation of the global exposure for these UCITS was not necessary. Rather, CESR believed that it would be more appropriate to have an alternative approach to the application of the existing guidelines (i.e. the guidelines published on 28 July 2010) to certain types of structured UCITS. Therefore, on 18 November 2010, CESR published a consultation paper (Ref. CESR/10-1253) setting out its proposal. The 18 responses received were largely supportive of the approach proposed.

4. ESMA is an independent EU Authority that was established on 1 January 2011 according to EU Regulation No. 1095/2010 as published on 15 December 2010, in the Official Journal of the European Union (L 331/84). The Authority contributes to safeguarding the stability of the European Union's financial system by ensuring the integrity, transparency, efficiency and orderly functioning of securities markets, as well as enhancing investor protection. In particular, ESMA fosters supervisory convergence both amongst securities regulators, and across financial sectors by working closely with the other European Supervisory Authorities competent in the field of banking (EBA), and insurance and occupational pensions (EIOPA).

5. ESMA's work on securities legislation contributes to the development of a single rule book in Europe. This serves two purposes; firstly, it ensures the consistent treatment of investors across the Union, enabling an adequate level of protection of investors through effective regulation and supervision. Secondly, it promotes equal conditions of competition for financial service providers, as well as ensuring the effectiveness and cost efficiency of supervision for supervised companies. As part of its role in standard setting and reducing the scope of regulatory arbitrage, ESMA strengthens international supervisory co-operation. Where requested in European law, ESMA undertakes the supervision of certain entities with pan European reach.

6. ESMA also contributes to the financial stability of the European Union, in the short, medium and long-term, through its contribution to the work of the European Systemic Risk Board, which identifies potential risks to the financial system and provides advice to diminish possible threats to the financial

stability of the Union. ESMA is also responsible for coordinating actions of securities supervisors or adopting emergency measures when a crisis situation arises.

7. ESMA replaced the Committee of European Securities Regulators (CESR), an advisory body comprised of EU securities regulators that advised the European Commission from 2001 to 2010 on policy issues around securities legislation.

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