

PRESS RELEASE 11/18

■ UCITS: ENTRY INTO FORCE OF THE LAW OF 17 DECEMBER 2010 AND UPDATE OF THE PROSPECTUSES

I.1. Adaptation of the references to the law of 2002

As from 1 July 2011, UCITS incorporated under Luxembourg law subject, until now, to the law of 20 December 2002 relating to undertakings for collective investment (the "2002 Law") will be governed *ipso jure* by the new law of 17 December 2010.

The UCITS' prospectuses will therefore also be governed *ipso jure* by the law of 2010 as from that date.

The CSSF accepts that the adaptations of the simple references to the 2002 Law in the UCITS' prospectuses shall not be carried out by 1 July 2011, but that they may be carried out gradually during the next update of the prospectuses.

I.2. Taking into account the document ESMA 10-788

Box 24 of ESMA's guidelines 10-788 of 28 July 2010 requires that UCITS include the following information in the prospectus:

- the method used to calculate the global exposure by differentiating between the commitment approach, the relative VaR approach and absolute VaR approach;
- the expected level of leverage and the possibility of higher leverage levels (for UCITS with a VaR approach);
- the information on the reference portfolio when UCITS use the relative VaR approach.

The CSSF considers that UCITS constituted before 1 July 2011 shall make their prospectuses compliant with the document ESMA 10-788 during the next update. This update shall be carried out by 31 December 2011 at the latest.

Further details in this matter will be published soon in the framework of a CSSF circular regarding risk management.

In order to facilitate the update of the prospectus with the document ESMA 10-788, the CSSF puts in place a "fast track" authorisation procedure.

II. "Fast track" authorisation procedure

This "fast track" authorisation procedure will be applied according to the following rules:

An authorisation request for the change of the prospectus shall be submitted to the CSSF. All the documents included in the file submitted to the CSSF shall point out to the changes made.

The authorisation request shall include a written confirmation by the UCITS or its management company (or by their authorised representative who has the required quality), that the changes carried out are limited to those required for the compliance of the UCITS with the requirements of the document CESR/10-788.

The CSSF will give authorisation or, if necessary, will transmit its comments and observations to the applicant in principle within a short time limit of 10 working days.

The CSSF specifies that the new possibilities introduced by the law of 17 December 2010 such as the master-feeder structures and the designation of a management company governed by the law of another Member State by a UCITS incorporated under Luxembourg law, will not be carried out via the "fast track" procedure.

III. Update of the regulatory provisions in relation to risk management following the publication of CSSF Regulation No. 10-04 and ESMA's guidelines

A circular concerning the main amendments in the regulatory framework regarding risk management following the publication of CSSF Regulation 10-04 and ESMA's specifications, additional details by the CSSF on the rules regarding risk management and the definition of the content and format of the risk management procedure to be communicated to the CSSF will be published soon by the CSSF.

Until this publication, the CSSF draws your attention to the following:

III.1. Taking into account the document ESMA 10-788 for transparency as regards risk in annual reports

Box 25 of ESMA's guidelines 10-788 provides that UCITS communicate the following information in the annual reports:

- method used to calculate the global exposure by differentiating between the commitment approach, the relative VaR approach and absolute VaR approach;
- information on the reference portfolio when UCITS use the relative VaR approach.
- information on the VaR including (at least) the lowest, the highest and the average utilization of the VaR limit calculated during the financial year and the model (e.g.: historical simulation, Monte Carlo simulation) and inputs (e.g.: confidence level, holding period, observation period);
- level of leverage employed during the financial year (for UCITS using VaR approaches when calculating the global exposure).

The CSSF considers that this information shall be included for the first time in the UCITS' annual report relating to the financial year ending after 1 July 2011. As regards the figures to be provided, the underlying observation period shall thus cover at least the period from 1 July 2011 until the date of the financial year-end.

Relevant details will be published in the framework of the above-mentioned circular.



III.2. New risk management procedure to be transmitted to the CSSF

The CSSF would like to remind that the management companies currently subject to Chapter 13 of the 2002 Law and the investment companies which did not designate a management company within the meaning of Article 27 of the 2002 Law (hereafter the "SIAG") shall submit an update of the application file completed with the new elements required by the law of 2010 and the CSSF regulation until 1 June 2011 at the latest in accordance with Circular CSSF 11/508.

As far as risk management is concerned, this means that the management companies and the SIAG shall update their risk management procedure and at the same time take into account not only the provisions of Circular CSSF 07/308, but also the requirements of Articles 42 to 50 of the CSSF regulation and ESMA's guidelines.

In the framework of this new circular, the CSSF will redefine the content and format of the risk management procedure which shall be transmitted, for the first time, to the CSSF by 31 December 2011 at the latest, following the publication of CSSF Regulation 10-04 and ESMA's specifications for the first time.

In the framework of the application file to be submitted to the CSSF, the new management companies and SIAG subject to the law of 2010 shall however submit a risk management procedure with the new content and the new format.

Luxembourg, 17 May 2011

