

"The Role of CESR in the Regulation and Supervision of UCITS and Asset Management Activities in the EU".

Dear Mr. Fabrice Demarigny,

The Banco de Portugal welcomes the opportunity to comment on the Consultation Paper about "The role of CESR in the regulation and supervision of UCITS and asset management activities in the EU".

The comments hereafter are of a general nature, since we consider it being of the utmost importance to have a precise understanding of the matters that are to be dealt by the CESR in the UCITS and asset management areas, so that it will be possible to assure that, de facto, all the competent authorities in the UCITS and Asset Management activities are involved in the CESR's work.

Our concerns are related to the fact that some of the matters addressed in the UCITS Directive, and also in the ISD, are also, or even exclusively, of the competence of supervisory authorities that are not securities regulators.

This is the situation in Portugal. Currently, in UCITS Portuguese institutional supervisory framework, Banco de Portugal and the Securities Market Commission (CMVM) are both supervisory authorities: the competences of the Central Bank relate to the authorisation for the set-up and prudential supervision of the UCITS management companies and the UCITS depositaries, whereas the CMVM is responsible for the UCITS' authorisation and supervision, as well as for the authorisation of the carrying out of certain activities by the UCITS management companies and for supervision of compliance with their business rules.

Although recognising that the "European Committee Architecture" is activity-based, rather than based on a certain type of institution, we consider that, as already stated by the Commission Services, any interference with the national organisation of prudential supervision should be avoided.

Please note that these concerns have already been transmitted to the other Member States, within the UCITS Contact Committee's meetings, and that the "Rules of Procedure" of the UCITS Contact Committee have been amended accordingly.

So, we suggest CESR to take into account the specificities of the supervisory framework in the asset management field in certain Member States, as already recognised within the UCITS Contact Committee, and to allow Member States' participation to reflect these specificities, according to the matters included in the CESR and its specialised Working Group agendas.

Yours sincerely,

Carlos Santos

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Banco de Portugal