Comments from Raiffeisen Capital Management on CESR´s Consultation Paper regarding CESR´s technical advice to the European Commission on the level 2 measures related to the UCITS Management Company Passport

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Raiffeisen Capital Management ("RCM") as a corporate member of EFAMA, which is distributing its funds in 18 countries already, is grateful for the opportunity to comment on CESR´s Consultation Paper regarding CESR´s technical advice on the level 2 measures related to the UCITS Management Company Passport.

In more detail, we would like to make the following comments:

- On page 11, the Investor is defined as any unitholder or potential unitholder. The scope of protection under the UCITS regime inures not just to the benefit of the existing unitholders, but to the benefit of potentially prospective unitholders as well. From a protective point of view, this definition seems to be reasonable. On the other hand, investor protection relating to potential unit holders should not lead to a disproportionate burden to the management company, e.g. regarding the duty to give disclosure not just to existing unitholders but also to potential unitholders in connection with the risk management of a UCITS.
- Page 14, Question 2 and 3: From our point of view, aligning the organizational requirements for UCITS management companies with the relevant MiFID requirements in the mentioned areas will not impose high additional costs on these UCITS management companies, which already provide the investment services of reception and transmission of orders or portfolio management, as a lot of requirements were already implemented within the scope of implementing the MiFID requirements. The benefits of aligning the organizational requirements for UCITS management companies with the relevant MiFID requirements will be to achieve a level playing field for comparable activities.
- Page 15, Box 1: We appreciate that the nature, scale and complexity of the business of the management company and the nature and range of services and activities undertaken in the course of that business are considered in the assessment of the answer to the question, what

sound organizational procedures and arrangements for management companies are.

- Page 19, questions 6 and 7: From our point of view, each company should be free to decide, whether respectively how far she is willing to make the remuneration policy internally transparent. For the avoidance of conflicts of interests, it should be sufficient that the senior management implemented a sound remuneration policy. To what extend the publication of the remuneration policy can lead to avoiding conflicts of interest, is irreproducible for us.
- Page 24, Question 10: According to the information contained in box 6, an investor should be able to file a compliant free of charge and in an official language of his Member State. This is specified to that effect, that this should be applicable in the event that the management company is authorized in a Member State different from the UCITS home member state. This requirement can lead to a burden to management companies, which operate in several member states, but is generally understandable from an investor protection point of view.
- Page 30, Question 12: Management companies are advised to record in electronic form the subscription and redemption orders from investors and the relevant terms and conditions immediately after receipt of any such order. It should be considered that in some countries the processing of subscription and redemption orders is not performed by the management company, but by the depository. The content of the recording should include a specific identification of the investor and the relevant UCITS. We would appreciate if it would be defined in more detail, how this process should be shaped. We would appreciate too, if it would be clearly defined who is responsible for the fulfillment of the anti money laundering requirements (e.g. the identification of the investor).
- Page 31: It should be considered that in some countries the accounting of UCITS is not performed by the management company, but by the depository.
- Page 34: The need for establishing a strategy for the exercise of voting rights (e.g. establishing procedures to monitor relevant corporate events) may lead to an administrative burden, especially for smaller management companies. It is sufficient, that only such corporate events are monitored, which the management company considers as significant. Furthermore, it is suggested that an updated summary description of these strategies and of the way they were actually implemented should be made available to the investors. In this context, it would be helpful to define, that this information should be made available to just the interested investors (on their request). Another possibility could be to publish the principles of the strategy e.g. in the prospectus. The requirement that information on how voting rights have been exercised should only be applicable on existing investors and just on request or could be published e.g. in the prospectus.
- Page 65, Due diligence requirements: We would very much appreciate if it could be defined more precisely how the due diligence policies and procedures could be formulated. In this context, the proportionality between the selected investments and the due diligence process should play an important role.
- Page 69, Box 5: For us, it is unclear, what is meant by the phrase “in accordance with the relevant provisions of the fund rules or the instruments of incorporation and/of the prospectus”. We would

appreciate if this could be defined more precisely.

- Page 94, Question 4: According to our point of view, the exchanging of information in relation to the outsourcing of activities should just take place, if the depositary is directly touched by the activity which was part of the outsourcing.

RCM thanks once again for the possibility to submit our view as to the above mentioned Consultation Paper. We trust that our contribution will be taken into account by CESR.

For further information or questions on this paper, please do not hesitate to contact:

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