European Association of Co-operative Banks
Groupement Européen des Banques Coopératives
Europäische Vereinigung der Genossenschaftsbanken

THE EUROPEAN ASSOCIATION OF CO-OPERATIVE BANKS COMMENTS ON

CESR'S ADVICE ON CLARIFICATION OF DEFINITIONS CONCERNING ELIGIBLE ASSETS FOR INVESTMENTS OF UCITS – 2ND CONSULTATION PAPER

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Rue de l'Industrie 26-38 • B-1040 Brussels
Tel: (+32 2) 230 11 24 • Fax (+32 2) 230 06 49 • e-mail : secretariat@eurocoopbanks.coop

About EACB

The European Association of Co-operative Banks (EACB) is the voice of Co-operative Banks in Europe. It represents, promotes and defends the common interests of its 35 members and co-operative banks in general.

Co-operative banks form decentralised networks which are governed by banking as well as co-operative legislation. The co-operative banks business model is based on three pillars: democracy, transparency and proximity. Through those pillars co-operative banks act as the driving force of sustainable and responsible development by placing the individual at the heart of their activities and organization. In this respect they widely contribute to the national and European economic and social objectives laid down in the Lisbon Agenda.

With 60.000 outlets and 4.500 banks, co-operative banks are widely represented throughout the enlarged European Union playing a major role in the financial and economic system. In other words, in Europe one out of two banks is a co-operative. Co-operative banks have a long tradition in serving 130 million customers, mainly consumers, retailers and SMEs. They have also developed a strong foothold in the corporate market providing services to large international groups. Quantitatively co-operative banks in Europe represent 47 millions members, 650,000 employees with a total average market share of about 20%.

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Introduction

The European Association of Co-operative Banks (EACB) welcomes the opportunity to provide comments on CESR's draft technical advice on Clarification of Definitions concerning Eligible Assets for Investments of UCITS. Moreover we would like to express our support to CESR's openness during the consultation process and welcome the fact that many of the industry´s recommendations made in the first round of the consultation were taken into account.

Concerning the CESR 2nd consultation paper, we would like to draw CESR's attention to the following issues which remain of concerns for the EACB.

Treatment of "structured financial instruments" / "other eligible transferable securities" (Box 1, Box 2)

The EACB and its members welcome the modifications made to the text and largely agree with CESR's new definition of "Transferable Security". However, we are still concerned that the wording of Box 1, Para. 1, fifth bullet point *("the security must be freely negotiable on the capital markets")* remains too restrictive and would exclude certain kind of securities such as securities sold through a private placement, or only to qualified investors, or which may not be marketed to US citizens. We would therefore suggest modifying that bullet point as follows:

- The security must be transferable through negotiation on the capital markets, registration on the register of shareholders or other equivalent means.

The same concern applies in Box 2 Para. 1, 5th bullet point for which we would suggest the same wording.

Financial derivative instruments (Box 14)

The EACB mainly supports CESR's new text. However we have some hesitations on the fact that financial indices underlying derivatives must comply with the diversification ratios set by Art. 22a of the UCITS Directive, which only applies to the investment in shares and/or fixed income securities in order to replicate the composition of an index. In order for the derivatives to be considered eligible assets, it is sufficient that the underlying index comply with the criteria set in the first bullet point of Para. 1 of Box 14 (and already listed in the first Consultation Paper). The second bullet point of Para. 1 should therefore be deleted.

Regarding the index management process, point i) is too restrictive as far as liquidity of underlying is concerned (This underlying should be sufficiently "liquid, to enable users to replicate the full index if necessary").In this respect we would suggest the following wording in replacement:

- "These underlyings should be sufficiently "liquid to enable users to replicate a position in most underlyings, if necessary", as a few minor index components might be less liquid but should not compromise the possibility to use the full index as underlying to eligible derivatives.

Conclusions

The EACB trusts that its comments will be taken in due account by the CESR. For further information or questions on the paper, please do not hesitate to contact:

- Mr. Hervé Guider, Secretary General (h.guider@eurocoopbanks.coop)
- Mrs. Elisa Bevilacqua, Adviser, Financial Markets (e.bevilacqua@eurocoopbanks.coop).