



Milan, 29 December 2010

CESR
11-13 Avenue de
Friedland
75008 Paris

Your Ref.: CESR/10-1253
Our Ref.: 739/10

Re: Response to the CESR consultation on “CESR’s Guidelines on Risk Measurement and the Calculation of Global Exposure for certain types of structured UCITS”

Assogestioni, the Italian association of asset management companies, welcomes the opportunity to comment on CESR’s Consultation Paper on guidelines at level 3 on Risk Measurement and the Calculation of Global Exposure for certain types of structured UCITS. Here below the Association responds to the consultation document.

1. Do you agree with the proposed approach for the calculation of global exposure to certain types of structured UCITS which satisfy the criteria in paragraph 2 of Box 29.

As we understand, all UCITS, included structured UCITS, must comply with CESR Guidelines and is responsibility of the management company to select an appropriate methodology to calculate global exposure. Therefore for the calculation of the global exposure a UCITS can alternative use the commitment approach or the VaR approach. If UCITS use the commitment approach and their characteristics meet the criteria in paragraph 2 of Box 29 (formula based UCITS) they can alternative calculate their exposure using the “standard” way or following the indication outlined at the end of paragraph 2 of Box 29.

If this interpretation is correct, we ask for a clarification on the issue of the diversification requirements indicated in the Box 29, par. 2d *“the impact of the performance of a single underlying asset on the payoff when the UCITS switches from one scenario to another complies with the diversification requirements of the UCITS directives”* and in Point 97 of the Guidelines *“UCITS must take into account the diversification requirements of the UCITS Directive in considering the impact of one constituent in the underlying basket on the overall payoff when the UCITS*



switches from one scenario to another. (...)

We believe that only in the case that the formula based UCITS follows the indication set in Box 29, the UCITS have to comply with the indicated characteristics. If the formula based UCITS calculates its global exposure using the commitment approach in the “standard” way or a VaR approach, it should comply with the UCITS diversification rules. These, for example, do not ask for UCITS that invest in an index-based financial derivatives instruments that meets the criteria set out in Article 53(1) of the UCITS Directive to take into account potential changes in the payoff of the derivatives due to one constituent.

2. Do you agree with the proposed criteria for these structured UCITS?

We agree with the proposed criteria but the criteria 2c: *“the investor can only be exposed to one scenario at any time during the life of the UCITS”*.

We deem that the investors at any time during the life of the UCITS is exposed to a number of different scenario, with the minimum of two. In the exemplification in point 98. the investor is every day exposed to two different scenarios: performance positive of Eurostoxx 50 index (scenario 1) or performance negative of Eurostoxx 50 index (scenario 2).

We ask therefore for a clarification of the criteria 2c or we suggest eliminating it.

3. Do you agree with the scope of the application of the alternative approach that derives from the criteria and global exposure calculation approach laid down in paragraph 2 of Box 29? If there are any specific criteria which could present difficulties for certain UCITS, could you elaborate on the reasons for your views and describe the types of UCITS concerned? 4. Can you suggest any alternative criteria?

In general, we agree with the criteria and global exposure calculation approach laid down in paragraph 2 of Box 29.

5. Do you agree with the proposal to limit the maturity of structured UCITS which may apply the provisions of Box 29 to 9 years? Do you have any alternative suggestions?

We agree with the proposal.

6. Do you agree with the proposal to prohibit these structured UCITS from accepting new subscriptions after the initial offer period?

We agree with the proposal.



7. Do you agree with the proposed criteria to limit the maximum loss the UCITS can suffer under any individual scenario on any given day? Can you suggest any methods by which this loss can be limited or other safeguards which would deal with the risks posed by the barrier-type features as described in Box 29?

We agree with the proposed criteria

8. Do you agree with the proposals regarding structured UCITS which were authorised before 1 July 2011? Do you have any alternative suggestions?

We agree with the proposal

9. Are the examples provided in paragraph 97 useful in illustrating the diversification requirement? 10. Can you suggest alternative examples?

We suggest to add more examples to give more information on the illustration of the diversification requirement.

For example, for fund with a formula based on the option "best of", it is not clear if the payoff should be divided by the number of the shares of the basket or by 1 (the best performer share).

Example 5: underlying assets: basket of 20 shares equity weighted. Initial asset value of 100. The fund pays a coupon at maturity equal to 20 (of 100) if the "best performer" share, at maturity, have a appreciation than or equal to 30%. Otherwise the payoff is 0.

The fund does not complies with the diversification rules, as the movement of one share results in a variation of at most 20% of the net asset value.

Example 6: underlying assets: basket of 20 shares equity weighted. Initial asset value of 100. The fund pays a coupon at maturity equal to 10 (of 100) if the action "best performer", at maturity, had a greater appreciation than or equal to 30%. Otherwise the payoff is 0.

The fund complies with the diversification rules, as the movement of one share results in a variation of at most 10% of the net asset value.

We suggest to introduce 2 brackets at Scenario 1 in point 98

*Scenario 1 - If the performance of the Eurostoxx 50 index is positive (e.g. +30%) then the payoff is equal to the initial investment (e.g. €1,000 plus 120% of the performance of Eurostoxx 50 index ($€1,000 * 120\% * 30\%$))= €1,360*



11. Do you think the examples in paragraph 98 correctly explain how global exposure is calculated in different scenarios? 12. Do you have alternative examples?

To better explain the global exposure calculation under different scenarios, we suggest presenting also examples in which the worst scenario for the investor lead to a payoff below the initial investment. As we understand, the global exposure is the maximum of the global exposure calculated in the different scenarios.

For example we suggest to introduce an exemplification for a fund that have the following scenarios

Pay out: 100% IVF +120% (FV-IV)/IV	if $(FV - IV) / IV > 0$
Pay out: 100% IVF +0% (FV-IV)/IV	if $(FV - IV) / IV$ is between -5% and 0%
Pay out: 95% IVF	if $(FV - IV) / IV < -5\%$

Where :

IVF= initial value of the fund

FV= final value of Eurostoxx 50 index

IV= initial value of Eurostoxx 50 index

We deem also important to illustrate examples with technical practise that could be compliant with global exposure requirements under the provisions of Box 3 guidelines and be seen as equivalent to total return swap . For example:

1. reverse repo + a performance swap;
2. an investment portfolio + a performance swap + an external guarantee of the payoff

13. Do you agree with the proposed prospectus disclosure requirements in Box 30?

Regarding the disclosure we suggest to change the proposed disclosure as follow;

“(b) includes a prominent risk warning informing investors who redeem their investment prior to maturity that they do not benefit from the predefined payoff and may suffer significant potential losses”

The proposal is consistent with the explanation of the loss and the possibility that the loss could also be not significant. The proposal is also coherent with the CESR's Guidelines on Selection and presentation of performance scenarios in the Key Investor Information document (KII) for structured UCITS (CESR/10-1318). In point 5 of Box 3 of the aforementioned Guidelines is indicated *“The narrative shall explain that investor can sell their units before the end date but it must include a prominent warning of the possible resulting loss on the investment”*,



14. Is the terminology used in the guidelines clear? Are there any terms used for which you feel it would be helpful to have a definition?

Yes, we think that the terminology used is clear.

We remain at your disposal for any request of clarification or further comments on the content of our reply.

The Director General