



EUROPEAN SAVINGS BANKS GROUP
GROUPEMENT EUROPEEN DES CAISSES D'EPARGNE
EUROPÄISCHE SPARKASSENVEREINIGUNG

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European Savings Banks Group (ESBG)

Response to CESR on the notification procedure in light of the UCITS Directive

(Ref: CESR/05-484)

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Profile European Savings Banks Group

ESBG (European Savings Banks Group) is an international banking association that represents one of the largest European retail banking networks, comprising about one third of the retail banking market in Europe, with total assets of €4,345 billion (1 January 2004). It represents the interests of its members' vis-à-vis the EU Institutions and generates, facilitates and manages high quality cross-border banking projects.

ESBG members are typically savings and **retail** banks or associations thereof. They are often organised in decentralised networks and offer their services throughout their **region**. WSBI and ESBG member banks have reinvested **responsibly** in their region for many decades and are one distinct benchmark for corporate social responsibility activities throughout the world.



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The European Savings Banks Group (ESBG) welcomes this opportunity to comment on the CESR proposal on notification procedure in the light of the UCITS Directive. We generally welcome most of the propositions contained in the draft text proposed by CESR. However, we believe that certain aspects should be given more consideration.

Q1: Is the starting of the two-month period dealt with in a practicable way in your view?

The ESBG believes that CESR approached the problem of the two-month period in a practicable way. We are especially pleased with the possibility to shorten the two-month period if the host state authority checks the notification and informs the UCITS that it can start the marketing immediately (paragraph 15).

Q2: Respondents are asked to provide their view on the practicability of the proposed approach.

The ESBG considers that CESR rightfully assumes that UCITS have a commercial interest in starting the marketing of their units very quickly. Along these lines, we also consider that the example in paragraph 25 is very likely to correspond to the reality. Nevertheless, we are concerned that delays might occur in practice due to different factors, such as translation requirements, causing UCITS to be late in submitting all the additional information by the end of the two-month period. The ESBG would invite CESR to clarify the procedure in such cases. It is our view that the host authority should finalise checking the notification despite the expiry of the two-month period as it was on its request that additional information had to be provided.

Q3: Respondents are asked to provide their view on the practicability of the proposed approach.

We fully agree with CESR that in case the simplified prospectuses of the UCITS are published on an official website in the internet under the responsibility of the home state authority, no further confirmation measures by the home state authority are needed (paragraph 31). It should however be decided whose responsibility it would be if any inefficiencies with



the webpage would occur. It is our view that UCITS should not bear responsibility in such cases.

Q4: Do you consider the suggested approach as appropriate?

The ESBG is supportive of the suggested approach. To enhance its proposal even more, CESR could also provide guidelines on how the host state authority could check whether the translation fully corresponds to the original and what the consequences of any substantial errors would be.

Q5: Do you consider the suggested approach as appropriate?

In general, we consider this approach appropriate in the light of the unavoidable national differences. However, certain issues such as applying the two-month period are in our view essential and we therefore urge CESR to try to reach an understanding between its members to treat this issue in a more harmonised way. This would increase legal certainty and bring more transparency to the market.

Q6: Do you consider the suggested approach as appropriate?

The ESBG considers that the suggested approach is appropriate.

Q7: Do you consider the suggested approach as appropriate?

The ESBG considers that the suggested approach is appropriate.

Q8: Do you agree with the proposals concerning the publication of the information or do you prefer another procedure and if, which one?

Q9: Do you feel that an issue in this consultation paper should be dealt with in more detail or that other aspects of an issue already contained in the consultation paper should also have been treated?

Q10: Should some additional issues related to the notification procedure have been dealt with in this consultation paper, and if yes, which?



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We are in general supportive of the approach taken, even if some issues still need to be improved further. Our concrete proposals are mentioned as answers to some of the previous questions (see answers to questions 1 to 5).

We are of the opinion that the consultation paper should also elaborate more on situations where UCITS decide to change their legal form. This action would normally trigger another two-month period for notification, which would result in a delay of business. We would therefore suggest that UCITS should be allowed to submit a preliminary notification in the host state.

Q 11: Is the model attestation practical in your view?

The ESBG considers that the model is practical. In addition, CESR could provide a more detailed explanation on how to fulfill the form.

Q 12: Is the model notification letter practicable in your view?

The current proposal is practical in most cases, but it does nevertheless not take into account the specific nature of umbrella funds whose prospectuses normally differ only to a very limited extent. Therefore, in our view the notification to market a new sub-fund should not be required to translate the full prospectus as specified in paragraph 14 of Annex II, but it should be sufficient to submit only a part of the prospectus that is specific to the new sub-fund.

Q 13: What would you suggest CESR to do regarding the national requirements to simplify the notification procedure?

We believe that the list in the Annex III should be exhaustive in order to increase legal certainty for market participants.