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Dr. Rudorfer/Ne

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Durchwahl
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CESR's Guideline for supervisors regarding the transitional provisions of the amending UCITS Directives (2001/107/EC and 2001/108/EC)

The department bank and insurance of the Austrian Federal Economic Chamber legally representing all Austrian Credit Institutions and UCITs would like to comment CESR's Guidelines for Supervisors as follows:

Referring to Chapter C

In general we think that the transitional provisions should be interpreted in this way that grandfathering rules should be valid only for funds / companies, continuing their activities, like: administration of existing funds, distribution of funds where they are still registered for distribution, etc., but not for extending activities like launching of further sub-funds, marketing and distribuion in additional countries.

Following this new activities should, starting with February 13, 2004 at the latest, be fully in compliance with UCIT III Directive.

- I.1) no / please see comments above
- I.2) agreed
- II.1) no
- III.1) no
- III.2) agreed
- IV.1) agreed
- V.2) agreed

Ad Chapter D

- I.1) agreed (separately)
- I.2) option B (only a product passport)
- I.3) yes (both passports)
- I.4.) agreed, but in practice not applicable
- I.5.) agreed (both)
- I.6.) agreed
- I.7.) agreed
- I.8) no
- I.9) agreed
- II.1) basically yes, but as soon as the non-UCITs has adapted to UCIT III , and it did not simultaneously / on time inform the host Member State of the respective date of adaption, it will loose its former permission, for it is not entitled to distribute its fund further more based on the old documentation / invalid legal basis.
- II.2.) if it works simultaneously, agreed

Best regards,

Dr. Herbert Pichler
Department Bank and Insurance
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