



ATHEX Comments on
**ESMA's policy orientations on guidelines for UCITS
Exchange-Traded Funds and Structured UCITS**

Please find below comments by Athens Exchange S.A. on the discussion paper of ESMA.

We agree with the points presented in the discussion paper, we include our comments on most of the issues raised and wish to draw your attention on the **expansion of the scope of definition on strategy indices (Q42)**.

Retailisation of complex products

1. Do you agree that ESMA should explore possible common approaches to the issue of marketing of synthetic ETFs and structured UCITS to retail investors, including potential limitations on the distribution of certain complex products to retail investors?

If not, please give reasons.

YES, we agree. Listing of such products in Regulated Markets or MTFs should be possible.

2. Do you think that structured UCITS and other UCITS which employ complex portfolio management techniques should be considered as 'complex'? Which criteria could be used to determine which UCITS should be considered as 'complex'?

Yes, we do think that structured UCITS and other UCITS which employ complex portfolio management techniques should be considered as 'complex'. Criteria that could be used for the determination of UCITS as complex should be indicatively their investment policy and scope of instruments that are allowed to be used (particularly if they make use of complex financial derivatives), the availability of models for pricing such instruments through the use of readily available historic data (as opposed to estimates eg probability of default etc), the degree to which such products are comprehensible to the investors, the leverage and the potential losses.

3. Do you have any specific suggestions on the measures that should be introduced to avoid inappropriate UCITS being bought by retail investors, such as potential limitations on distribution or issuing of warnings?

The suitability obligation and the Appropriateness test imposed by MIFID with regard to the provision of financial services to clients could be respectively applied in UCITS and their retail investors, especially to the complex UCITS. Anyway, we agree with

the imposition of potential limitations on distribution or issuing of warnings with regard to complex UCITS.

4. Do you consider that some of the characteristics of the funds discussed in this paper render them unsuitable for the UCITS label?

We consider that the characteristics of the funds discussed in this paper render them suitable for the UCITS label even though some UCITS are complex

5. Do you agree that ESMA should give further consideration to the extent to which any of the guidelines agreed for UCITS could be applied to regulated non-UCITS funds established or sold within the European Union? If not, please give reasons.

We do agree.

6. Do you agree that ESMA should also discuss the above mentioned issues with a view of avoiding regulatory gaps that could harm European investors and markets? If not, please give reasons.

We do agree

7. Do you agree with the proposed approach for UCITS ETFs to use an identifier in their names, fund rules, prospectus and marketing material? If not, please give reasons.

We do agree. Listing of such products in RMs or MTFs could be used in order for the Market Operator to make readily available in the dedicated website such material in order to allow investors to have access and assess the products.

8. Do you think that the identifier should further distinguish between synthetic and physical ETFs and actively-managed ETFs?

YES, we believe that the identifier should further distinguish between synthetic and physical ETFs and actively-managed ETFs for clarity reasons, for organising such ETFs in databases, for better operational procedures and for better information of the retail investors

9. Do you think that the identifier should also be used in the Key Investor Information Document of UCITS ETFs?

YES, we believe that the identifier should also be used in the Key Investor Information Document of UCITS ETFs for the better information of the retail investors, as the latter are more likely to read only the KIID because it is handier and easier.

10. Do you agree with ESMA's analysis of index-tracking issues? If not, please explain your view.

We agree with ESMA's analysis of index-tracking issues

11. Do you agree with the policy orientations identified by ESMA for index-tracking issues? If not, please give reasons.

We agree with the policy orientations identified by ESMA for index-tracking issues

12. Do you think that the information to be disclosed in the prospectus in relation to index-tracking issues should also be in the Key Investor Information Document of UCITS ETFs?

We agree that the information to be disclosed in the prospectus in relation to index-tracking issues should also be in the Key Investor Information Document of UCITS ETFs, on condition that the structure and 2pages format of the KII as defined by the regulations will not be significantly affected.

13. Are there any other index tracking issues that ESMA should consider?

We do not see at this moment any other issues.

14. If yes, can you suggest possible actions or safeguards ESMA should adopt?

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15. Do you support the disclosure proposals in relation to underlying exposure, counterparty(ies) and collateral? If not, please give reasons.

We support the disclosure proposals in relation to underlying exposure, counterparty(ies) and collateral This increases transparency.

16. For synthetic index-tracking UCITS ETFs, do you agree that provisions on the quality and the type of assets constituting the collateral should be further developed? In particular, should there be a requirement for the quality and type of assets constituting the collateral to match more closely the relevant index? Please provide reasons for your view.

We agree that there should be a requirement for the quality and type of assets constituting the collateral to match more closely the relevant index: the collateral should not differ from the underlying assets of the index and cash should also be an alternative.

17. In particular, do you think that the collateral received by synthetic ETFs should comply with UCITS diversification rules? Please give reasons for your view.

We think that the collateral received by synthetic ETFs should comply with UCITS diversification rules because in case of default of the counterparty, the UCITS will be exposed to increased risks in case the collateral does not satisfy the UCITS diversification rules.

Securities lending activities

18. Do you agree with ESMA's analysis of the issues raised by securities lending activities? If not, please give reasons.

We agree with ESMA's analysis of the issues raised by securities lending activities

19. Do you support the policy orientations identified by ESMA? If not, please give reasons.

We agree with ESMA's policy orientations

20. Concerning collateral received in the context of securities lending activities, do you think that further safeguards than the set of principles described above should be introduced? If yes, please specify.

We believe that any further safeguards than the set of principles described above should be considered at a later stage.

21. Do you support the proposal to apply the collateral criteria for OTC derivatives set out in CESR's Guidelines on Risk Measurement to securities lending collateral? If not, please give reasons.

We support ESMA's proposal to apply the collateral criteria for OTC derivatives set out in CESR's Guidelines on Risk Measurement to securities lending collateral

22. Do you consider that ESMA should set a limit on the amount of a UCITS portfolio which can be lent as part of securities lending transactions?

We believe that ESMA should set a limit on the amount of a UCITS portfolio which can be lent as part of securities lending transactions, in proportion to the credit risk of the counterparty involved, liquidity criteria, percentage of total assets and possibility of acquiring the assets within a specific time frame in accordance to clearly defined investment principles/practices/rules of the portfolio manager.

23. Are there any other issues in relation of securities lending activities that ESMA should consider?

See above.

24. If yes, can you suggest possible actions or safeguards ESMA should adopt?
Actively managed UCITS ETFs

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25. Do you agree with ESMA proposed policy orientations for actively managed UCITS ETFs? If not, please give reasons.

We agree with ESMA proposed policy orientations for actively managed UCITS ETFs

26. Are there any other issues in relation to actively managed UCITS ETFs that ESMA should consider?

27. If yes, can you suggest possible actions or safeguards ESMA should adopt?

Leveraged UCITS ETFs

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28. Do you agree with ESMA analysis of the issues raised by leveraged UCITS ETFs? If not, please give reasons.

We agree with ESMA's analysis of the issues raised by leveraged UCITS ETFs

29. Do you support the policy orientations identified by ESMA? If not, please give reasons.

Respond: We agree with ESMA's policy orientations

30. Are there any other issues in relation to leveraged UCITS ETFs that ESMA should consider?

31. If yes, can you suggest possible actions or safeguards ESMA should adopt?

Secondary market investors

32. Do you support the policy orientations identified by ESMA? If not, please give reasons.

We support ESMA's policy orientations

33. Are there any other issues in relation to secondary market investors that ESMA should consider?

34. If yes, can you suggest possible actions or safeguards ESMA should adopt?

35. In particular, do you think that secondary market investors should have a right to request direct redemption of their units from the UCITS ETF?

We believe that secondary market investors should have a limited right to request direct redemption of their units from the UCITS ETF in exceptional cases, such as suspension of trading, etc. A generalised right could create liquidity and other types of risk issues.

36. If yes, should this right be limited to circumstances where market makers are no longer providing liquidity in the units of the ETF?

YES, this right should be limited to circumstances where market makers are no longer providing liquidity in the units of the ETF

37. How can ETFs which are UCITS ensure that the stock exchange value of their units do not differ significantly from the net asset value per share?

ETFs which are UCITS could ensure that the stock exchange value of their units does not differ significantly from the net asset value per share by appointing at least one market maker for their units and by trying to keep the limit specified by the regulatory authority with regard the INAV during trading hours

Total return swaps

38. Do you agree with ESMA analysis of the issues raised by the use of total return swaps by UCITS? If not, please give reasons.

We agree with ESMA's analysis of the issues raised by the use of total return swaps by UCITS

39. Do you support the policy orientations identified by ESMA? If not, please give reasons.

We support ESMA's policy orientations

40. Are there any other issues in relation to the use of total return swaps by UCITS that ESMA should consider?

41. If yes, can you suggest possible actions or safeguards ESMA should adopt?

Strategy indices

42. Do you agree with ESMA's policy orientations on strategy indices? If not, please give reasons.

Yes, we agree with ESMA's policy orientations on strategy indices. We believe that we should expand the definition of strategy indices to include cases where the underlying may be a number of futures or forward contracts that are, in several cases, more liquid than their underlying and for which historic data is readily available and can be used for constructing such indices. The underlying of such futures or forward contracts should be either individual instruments (eg an interest rate or Brent crude oil price) or an index of such instruments (eg an index of ship routes that compose a freight index). Therefore, as an example an index on oil price futures and gas price index future, or an index composed by Freight Forward Agreements on individual routes or indices of routes should be clearly included in that category.

43. How can an index of interest rates or FX rates comply with the diversification requirements?

See above

44. Are there any other issues in relation to the use of total return swaps by UCITS that ESMA should consider?

45. If yes, can you suggest possible actions or safeguards ESMA should adopt?