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Secretary General of CESR
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For the attention of Mr. Fabrice Demarigny

21 November 2005

Dear Sirs,

Second Consultation on CESR's Draft Advice on Clarification of Definitions concerning Eligible Assets for Investments of UCITS

We have had sight of a letter dated of even date herewith from Barclays Capital concerning the Second Consultation.

In broad principle we would agree with the comments outlined therein. Specifically, we would mention the following as being highly pertinent to your consideration.

1. For some years now there has been a trend leading to eventual convergence between traditional fund management and the use of structured product. The market has been very clear that from an investor perspective the investor requires the benefits of the defined returns from fiduciary managers within a controlled and regulated market.

2. Investors increasingly view guaranteed / principal protected structured products which offer defined returns as positive alternatives to low yielding cash / bond funds

Against this background we consider that all cash settled derivative contracts (whether listed or traded over-the-counter) should be eligible. We would exclude from this precious metals. The OTC market as well as the listed products market is now sufficiently well developed and trading on sufficiently well defined contractual terms under the governance of a quasi-legal industry body (ISDA) that there is consistency, objectivity and certainty of terms from a legal perspective as well as depth and liquidity to the market from an economic perspective. Permitting the use of commodities (as well as Hedge Fund Indices, please see further below) allows greater diversification which benefits investors. Additionally, the use of commodities (via commodity derivatives) allows both pre-defined returns and protection against inflation as well as a inverse correlation to bond markets, again to the benefit of the investor.

The second comment we make is that all non-sporting indices (i.e., conventional betting contracts) should be considered as "financial indices". In this regard we would consider that established Hedge Fund Indices should certainly be included as eligible assets. The key factor in our view is that such indices should be "investable". They should be clearly defined with adequate liquidity and daily pricing. In other words so long as they are capable of being invested in in substantially the same manner as an ordinary equity, then there is no reason artificially to exclude them.

Yours faithfully,

M Fullalove
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