



Response to ESMA Discussion paper – ESMA's policy orientations on guidelines for UCITS Exchange Traded Funds and Structured UCITS

Name and address:

Federation of Finnish Financial Services
Bulevardi 28
00120 Helsinki
Finland

Contact: Mr. Jari Virta, e-mail: jari.virta@fkl.fi, tel: +358 20 793 4252

The Federation of Finnish Financial Services (hereinafter FFI) welcomes the opportunity to respond to the Commission consultation on this topic. The FFI has participated in preparing responses by European Fund and Asset Management Association (hereinafter EFAMA) and European Banking Federation (hereinafter EBF). As an association which represents widely the Finnish financial services, including fund and asset managers, banks, securities dealers and insurance, we would like point out the following issues:

General remarks

We find the analysis done by ESMA interesting and agree that issues which are raised in the document are important.

However, we strongly disagree with the proposed approach of preparing ESMA guidance at this particular moment. We also strongly disagree with the proposals of preventing retail investors from investing into UCITS ETFs or structured products

Timing of the proposals

We find interesting that ESMA has published the discussion paper now, when preparations for MiFID review are under way and the Commission is expected to publish their proposal in the near future. This issue is difficult for two reasons. First, ESMA's proposal covers issues which are regulated in MiFID, not in UCITS legislation, and in our opinion any changes should be done in the context of MiFID review. Secondly, issuing the proposals in the form of ESMA recommendations is likely to create legal uncertainty which would cause unnecessary costs to market participants. And most likely another round of changes following MiFID review.



Specific remarks

First of all, we would like to point out that ESMA's document does not include a definition of ETF. This would lead into a situation where all UCITS which are traded on regulated markets would be caught by the guidelines. If ESMA chooses to proceed with issuing guidelines it is essential that ESMA define ETFs (and exclude those UCITS traded on regulated markets which do not meet any of the characteristics of "real ETF").

Additionally, we do not think that there should be a generally separate regulatory regime for ETF UCITS. ETFs are UCITS. The only thing that is specific about them is that they are listed on a regulated market. If UCITS IV rules are properly followed, the prospectus and KIID should make it clear to the investor what are the main features of a given UCITS.

As regards issue concerning complex and simple products, we think that the rules should be applicable not only to UCITS, but to all financial products that are marketed to retail investors. They should therefore be based not on the UCITS Directive, but rather on MIFID, taking due account of the MIFID review debate, and on the PRIIPs Directive.

Finally, we do not see that ETFs or other structured UCITS per se should be banned from retail investors. UCITS are basically tailored for the needs of retail investors and many ETFs facilitate the access of retail investors into investments which would otherwise not be possible. The categories of retail investors include very different types of investors with different levels of knowledge and different needs. The most important issues should be that any particular investor can have the necessary information in order to make his investment decisions. The decision should be done by the product providers and investors – not by regulators. In practical terms, we would find it very difficult to define in advance which products should be banned and which not.

For the reasons described above, we strongly encourage ESMA not to proceed with the proposed advice.

FEDERATION OF FINNISH FINANCIAL SERVICES

Markku Savikko

Director