



26 November 2004

The Committee of European Securities Regulators
11-13 Avenue de Friedland
75008 Paris
FRANCE

Dear Sir

**FORMAL MANDATE TO CESR FOR ADVICE ON POSSIBLE MODIFICATIONS TO
THE UCITS DIRECTIVE IN THE FORM OF CLARIFICATION OF DEFINITIONS
CONCERNING ELIGIBLE ASSETS FOR INVESTMENT OF UCITS**

The Institutional Money Market Funds Association (IMMFA) is grateful for the opportunity to comment on CESR's call for evidence regarding eligible assets for investment of UCITS.

IMMFA is the trade body representing promoters of triple-A rated money market funds¹. IMMFA members cover nearly all of the major promoters of this type of fund outside the USA. Total assets in IMMFA members' funds were in excess of US\$ 206.5 billion, as at 1 October 2004². You may obtain further information on AAA-rated money market funds from our website, www.immfa.org.

IMMFA welcomes this opportunity to respond to CESR's call to provide evidence on modifying the definitions of eligible assets. Our detailed comments are provided in an attached Appendix.

If you have any questions in relation to the above, please do not hesitate to contact me.

Yours sincerely

Marilyn Bassett

¹ References to triple-A rated money market funds in this letter means funds rated, specifically, AAAM by Standard & Poors, Aaa/MR1+ by Moody's and AAA/V-1+ by Fitch.

² Source: iMoneyNet IMMFA Money Fund Report.

Formal mandate to CESR for advice on possible modifications to the UCITS Directive in the form of clarification of definitions concerning eligible assets for investment of UCITS

Comments by the Institutional Money Market Funds Association (IMMFA)

General Comments

IMMFA welcomes this opportunity to respond to CESR's call to provide evidence on modifying the definitions of eligible assets

However, while understanding the desire for clarity, we would like to stress the importance of balancing this with the need to maintain sufficient flexibility in the definitions to allow them to encompass the wide variety of existing instruments, as well as instruments which may be developed in the future.

On money market instruments in particular, IMMFA is not aware of any difficulties arising due to lack of clarity in their definition or a need for alignment of the transposition of the UCITS Directives by member states in this respect. Any action to modify the definition of money market instruments must be based on evidence that there is an issue requiring rectification, must not be prescriptive and must not be detrimental to innovation and flexibility.

For this reason, IMMFA has not considered it appropriate to respond in detail on a number of the questions raised by CESR in its call for evidence.

3.1 Clarification of Art. 1(8) (Definition of Transferable Securities)

3.1.1 Treatment of “structured financial instruments”

IMMFA supports the prerequisite that, to be a transferable security, a structured financial instrument must be liquid. Whether it is liquid should be determined on a case-by-case basis and driven by the kind of market involved.

Many structured financial instruments are not dealt in on a regulated exchange, but between regulated counterparties. Thus, the term “another regulated market”, as used in Article 19 (b) to (d), must be capable of being construed as including such arrangements, in order to meet the clear intent of the Directive that such instruments are permissible investments for UCITS.

3.2 Clarification of Art.1(9) (Definition of Money Market Instruments)

3.2.1 General rules for investment eligibility

Subject to the prerequisites that a money market instrument is dealt in on a regulated market and is liquid, the categories of money market instruments in which UCITS may invest should not be specified. Nor, should there be specific criteria in respect of the underlyings and techniques involved. This flexibility is essential given the variety of forms of money market instruments, and to allow for innovation and the development of new instruments.

For this purpose, IMMFA emphasises again the importance of construing the term “regulated market” so as to encompass instruments traded between regulated counterparties.

Whether or not an instrument is liquid should be determined on a case-by-case basis by the market valuers and fund providers: for an instrument to be liquid, there must be a two-way market.

3.2.3 Art. 19(1)(h)

First bullet point

CESR asks how the pre-requisite that the issuer of a money market instrument is itself regulated can be squared with the additional criteria of the first indent of the article that the instrument is “issued or guaranteed by a central, regional or local authority.” The answer is that the two requirements cannot be combined as local authorities cannot be regulated.

Third bullet point.

CESR has been requested to provide advice on which instruments are covered by the provision that the issuer is an entity which is dedicated to the financing of securitisation vehicles which benefit from a banking liquidity line.

IMMFA does not believe that this is pertinent at the UCITS level. The liquidity facilities and the sponsorship behind the issue of a money market instrument are simply facilities attaching to the instrument. The fund provider will consider these factors in its credit analysis and assessment of the security of the instrument, but its primary concern will be the quality of the underlying assets of the instrument. Ultimately, for money market funds, their triple-A rating will provide protection.

3.5 Derivative financial instruments

Please see our comments above.

3.6 Index replicating UCITS

IMMFA believes that it is important to retain the existing flexibility in determining whether a UCITS should be recognised as falling within the scope of the term of “replicating the composition of a certain index”. Specific criteria for this determination should not, therefore, be identified.

If the intention to standardise the criteria to determine the eligibility of an index is progressed, then we would support the advice of the Investment Management Association in this respect, as set out in its response to CESR.