

Eligible Assets for Investments of UCITS – RCM's Response to CESR's 2nd Consultation Paper

Raiffeisen Kapitalanlage-Gesellschaft
Am Stadtpark 9
A-1030 Wien

Raiffeisen Kapitalanlage-Gesellschaft (RCM) welcomes the opportunity to respond to the 2nd CESR's draft technical advice on Clarification of Definitions concerning Eligible Assets for Investments of UCITS. We thank CESR for its openness during the consultation process and for taking into account many of the industry's recommendations made in the first round of the consultation.

During the 2nd consultation process we have identified the following issues which should be taken into consideration:

Treatment of "structured financial instruments" / "other eligible transferable securities" (Box 1, Box 2)

We greatly appreciate the modifications made to the text and largely agree with CESR's new definition of "Transferable Security". However, we are still concerned that the wording of Box 1, Para. 1, fifth bullet point ("*the security must be freely negotiable on the capital markets*") remains too restrictive and would exclude for example securities sold through a private placement, or only to qualified investors, or which may not be marketed to US citizens. We would therefore suggest modifying that bullet point as follows:

- The security must be transferable through negotiation on the capital markets, registration on the register of shareholders or other equivalent means.

The same concern applies in Box 2 Para. 1, 5th bullet point. We suggest the same wording as stated above.

Financial derivative instruments (Box 14)

We largely agree with CESR's new text. We do not believe, however, that financial indices underlying derivatives must comply with the diversification ratios set by Art. 22a of the UCITS Directive, which only apply to the investment in shares and/or fixed income securities in order to replicate the composition of an index. In order for the derivatives to be considered eligible assets, it is sufficient that the underlying index comply with the criteria set in the first bullet point of Para. 1 of Box 14 (and already listed in the first Consultation Paper). The second bullet point of Para. 1 should therefore be deleted.

Regarding the index management process, point i) is too restrictive as far as liquidity of underlyings is concerned (These underlyings should be sufficiently "liquid, to enable users to replicate the full index if necessary"): we suggest the following wording in replacement: "These underlyings should be sufficiently "liquid to enable users to replicate a position in most underlyings, if necessary", as a few minor index

components might be less liquid but should not compromise the possibility to use the full index as underlying to eligible derivatives.

We hope that our comments will be taken in due account by CESR. For further information, please do not hesitate to contact:

- > Mr. Heinz Macher, Head of Legal & Taxes (heinz.macher@rcm.at; Tel: +43/1/71707-3123)

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