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Barclays' Response to Call for Evidence on CESR's Mandate on Investment Management

Barclays is a UK-based financial services group engaged primarily in banking, investment banking and investment management. In terms of assets employed, Barclays is one of the largest financial services groups in the United Kingdom.

Barclays Global Investors (BGI) is one of the world's largest asset managers, providing structured investment strategies such as indexing, tactical asset allocation, and risk-controlled active strategies. The investment philosophy focuses on managing all dimensions of performance: return, risk and cost. Asset management is complemented by a range of related investment services including cash management, securities lending and transition management.

We responded to CESR's consultation last autumn on the role of CESR in the regulation and supervision of UCITS and Asset Management activities in the EU and welcome the opportunity to comment further on CESR's more developed ideas in this field.

Barclays broadly welcomes the decision of CESR both to create an Expert Group on Investment Management and the draft mandate dated June 2004. We would offer the following comments on the mandate:

2.1 Transitional Provisions

From our perspective the most significant urgent item relates to the simplified prospectus, as introduced by Directive 2001/108/EC. We are aware that a number of Member States have yet to finalise regulations for the content of the simplified prospectus, while other Member States require such a document from any non-local funds seeking registration. This causes a problem for many fund families seeking to distribute outside their home market.

3.1 Simplification of the registration procedure for UCITS

We would welcome any steps towards simplification of the registration procedure for UCITS funds. We note that in many Member States, registration requires the appointment of a local paying or centralising agent. It appears to us that advances in cross-border communications and payments have effectively removed the practical need for such an appointment. We suggest that regulation should reflect this.

In this context, we would draw attention to certain specific issues affecting Exchange Traded Funds (ETFs), which may be broadly defined as UCITS funds that are listed and actively traded on one or more recognised exchanges. We would welcome the opportunity to provide a more detailed submission on this point.

In general, we offer the opinion that any further significant progress towards a single market in investment funds requires an alignment of the tax treatment of funds such that discrimination based on the country of origin of the fund is eliminated, a matter beyond the immediate competency of CESR.

3.4 Common Approach to Non-Harmonised Funds

We agree that there is scope for common standards in the regulation of non-harmonised funds across the European Union. It is our firm view that the standards should be based on the principle that non-harmonised funds should be freely distributable to institutional and professional clients (however defined), with more detailed but still proportionate regulation governing any attempt to distribute the funds to the broader retail market.

6 Possible Requests of Assistance by the European Commission

We would welcome further guidance on the use of derivatives by UCITS funds. We still do not fully understand the practical impact of certain provisions in Directive 2001/107/EC as amplified by the Recommendation of 27 April 2004.

If you have any questions relating to any of the points raised in this response, please do not hesitate to contact Bill Eldridge (bill.eldridge@barclays.co.uk) or Laura Mowbray (laura.mowbray@barclays.co.uk).