



30 March 2012

ESMA
103 Rue de Grenelle
75007 Paris
France

Dear Sir/Madam

ESMA's guidelines on ETFs and other UCITS issues

The Depositary and Trustee Association ("DATA") represents all depositaries and trustees of UK based authorised funds. At the end of February 2012, the members of DATA were responsible for safeguarding £615.4 billion of fund assets.

Please find enclosed DATA's response to the Question 30 of the above-mentioned consultation paper. We leave it to other trade associations to provide appropriate responses to the other questions in the consultation.

Q30: In relation to the valuation of the collateral by the depositary of the UCITS, are there situations (such as when the depositary is an affiliated entity of the bank that provides the collateral to the UCITS) which may raise risks of conflict of interests? If yes, please explain how these risks could be mitigated? The question is also valid for collateral received by the UCITS in the context of total return swaps.

In the UK, the role of the depositary is to ensure that stocklending collateral is acceptable and its value is sufficient. It is the responsibility of the manager to ensure the same applies for OTC derivatives under CESR's Guidelines. Conflicts of interests would not apply. In any case, the UCITS rules contain strong requirements to manage conflicts of interests, which should be enforced by national regulators

If you have any queries, please do not hesitate to contact us.

Yours faithfully

Darren Banks
Chairman