



UBS

**UBS AG**

P.O. Box  
8098 Zürich

Public Policy EMEA  
Group Governmental Affairs

Dr. Gabriele C. Holstein  
Bahnhofstrasse 45  
P.O. Box  
8098 Zürich  
Tel. +41-44-234 44 86  
Fax +41-44-234 32 45  
gabriele.holstein@ubs.com

[www.ubs.com](http://www.ubs.com)

European Securities and Markets Authority  
103 Rue de Grenelle  
75007 Paris  
France

25 September 2012

**Re: ESMA Consultation Paper on recallability of repo and reverse repo arrangements**

Dear Sir/Madam,

UBS would like to thank ESMA for the opportunity to comment on the Consultation Paper on recallability of repo and reverse repo arrangements. Please find attached our response to the Paper.

We would be happy to discuss with you, in further detail, any comments you may have. Please do not hesitate to contact Gabriele Holstein on +41 44 234 4486.

Yours sincerely,  
UBS AG

Mr. Guido Stroemer  
Global Head of Repo Trading

Dr. Gabriele C. Holstein  
Head of Public Policy EMEA  
Group Governmental Affairs

## **UBS Response to ESMA's Consultation on recallability of repo and reverse repo arrangements**

### **INTRODUCTION**

UBS would like to thank ESMA for the opportunity to comment on the Consultation paper on recallability of repo and reverse repo arrangements.

As an overall comment we welcome the fact that ESMA has considered industry feedback to the first consultation paper and is no longer considering that UCITS entering into repo and reverse repo arrangements are required to have the capacity, at any time, to recall any asset subject to repo or to terminate the contract, but to leave the possibility to UCITS to enter into fixed term repo and reverse repo arrangements under which the assets are not callable at any time for a certain proportion of their assets as long as the UCITS is able to execute redemption requests.

We propose that the maximum share of assets that can be entered into repo trades be dependent on the worst possible redemption rate of the respective fund as defined in a fund's terms and conditions. We furthermore do not consider that there is a need to prescribe a minimum number of counterparties of arrangements under which the assets are not callable at any time.

Our responses to the specific questions set out in the consultation paper follow below.

## **PROPOSED ESMA GUIDELINES**

### **1. When UCITS enter into repo and reverse repo arrangements, they should ensure that:**

- a.** these arrangements do not compromise their abilities to execute redemption requests in accordance with Article 84(1) of the UCITS Directive; and
- b.** the value of the assets that are subject to arrangements on terms that do not allow the assets to be recalled at any time by the UCITS should not exceed in aggregate [X]% of the net asset value of the UCITS at any time.

### **2. For the purpose of paragraph 1b:**

- a.** overnight repo and overnight reverse repo arrangements should be considered as arrangements on terms that allow the assets to be recalled at any time by the UCITS.
- b.** repo and reverse repo arrangements on terms that allow the assets to be recalled at any time by the UCITS should permit the UCITS to:
  - i. recall the full amount of cash on an accrued basis or terminate on an accrued basis the reverse repo transaction into which it has entered; and
  - ii. recall any securities subject to the repo transaction or terminate the repo transaction into which it has entered.

### **3. In addition, UCITS should ensure that the following requirements are respected:**

- a.** where the UCITS uses fixed term arrangements, there should be an appropriate balance between short-term and medium-term arrangements;
- b.** there should be an appropriate diversification at the level of the counterparties to any arrangements that do not allow the assets to be recalled at any time; and
- c.** the collateral received by the UCITS should comply with the criteria set out in paragraph 40 of the guidelines.

**Q1: What is the average percentage of assets of UCITS that are subject to repurchase and reverse repurchase agreements? For the purposes of this question, please have regard to arrangements covered by the provisions of Article 51(2) of the UCITS Directive and Article 11 of the Eligible Assets Directive (i.e. those arrangements which do not fall under the definitions of transferable securities and money market instruments, in accordance with recital 13 of the Eligible Assets Directive). In addition, please provide input on the following elements:**

- i) The extent to which assets under such arrangements are not recallable at any time at the initiative of the UCITS.**
- ii) The maximum and average maturity of repo and reverse arrangements into which UCITS currently enter. Please provide a breakdown of the maturities with reference to the proportion of the assets of the UCITS.**

We have no comments to provide apart from the general comment that it is difficult to provide meaningful figures given that the percentage of UCITS assets subject to repo or reverse repo agreements varies significantly from one UCITS to another and is dependant on a range of different criteria.

**Q2: Do you agree with the proposed guidelines for the treatment of repo and reverse repo agreements? If not, please justify your position.**

We would like to specifically comment on Paragraph 3 of the proposed ESMA guidelines:

We agree with the view that UCITS should be allowed to invest parts of their portfolio in term trades. We consider the benefits of additional yield for the fund and increased liquidity for the market as a whole to outweigh the increased risks which can be aptly mitigated by the proposed regulation.

On a broader note, we would also emphasize our view that there should not be a separate regulation for trades based on a Global Master Securities Lending

Agreement (GMSLA) versus trades based on a Global Master Repurchase Agreement (GMRA). The economic difference between a GMSLA and a GMRA are not material with regards to the treatment of term risk. As a consequence, regulatory provisions for term trades under a GMRA should equally apply to term trades done under a GMSLA.

**Q3: What are your views on the appropriate percentage of assets of the UCITS that could be subject to repurchase and reverse repurchase agreements on terms that do not allow the assets to be recalled by the UCITS at any time and that would not compromise the ability of the UCITS to execute redemption requests?**

We propose that the maximum share of assets that can be entered into repo trades be dependent on a fund's worst possible redemption rate as defined in a fund's terms and conditions.

In practice, a distinction between short-term and long-term commitments will be required. We propose to limit the weighted average duration of a UCITS' term trades to 90 days. This will ensure that the term risk stays within manageable levels.

**Q4: Do you consider that UCITS should be prohibited from entering into repo and reverse repo arrangements on terms that do not allow the assets to be recalled by the UCITS at any time? If not, please indicate possible mitigating measures that could be envisaged in order to permit UCITS to use repo and reverse repo arrangements on terms that do not allow the assets to be recalled by the UCITS at any time.**

No, we do not consider that a UCITS should be prohibited from entering into repo and reverse repo arrangements on terms that do not allow the assets to be recalled by the UCITS at any time. Referring to our response to Q2, we believe that the use of term trades is beneficial to UCITS. One possible option to mitigate the term risks would be to require counterparties to always offer a market for early terminating a transaction, and to offer right of substitution.

**Q5: Do you think that there should be a minimum number of counterparties of arrangements under which the assets are not callable at any time? If yes, what should be the minimum number? To answer this question, you are invited to take into account your response to question 2 above.**

No, we do not consider that there is a need to prescribe a minimum number of counterparties of arrangements under which the assets are not callable at any time. It is our view that a UCITS should be managing its counterparty risk by means of appropriate collateral requirements and not via an increased number of counterparties. We would like to draw ESMA's attention to the fact that such limits are likely to disfavour a competitive pricing environment to the detriment of the interest of end investors.