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CESR Members review implementation of CESR'S guidelines on the transitional provisions of the amending UCITS Directives.

Convergent implementation of financial services legislation is a key to ensuring the single market functions effectively and investors can enjoy similar level of protections throughout the EU. To this end, the Committee of European Securities Regulators' (CESR) is carrying out a number of different reviews¹ through its Review Panel to ensure convergent implementation and publishes today the results of an assessment of its Members' implementation of a number of CESR's guidelines on the transitional provisions of the amending UCITS Directives (the "UCITS Guidelines"). The 'UCITS Guidelines' (Ref CESR/04-434B) published in February 2005, were developed to converge the different administrative practices that Member States had developed due to ambiguities contained in the UCITS III legislative texts. The review by Members began in June 2005 and the review took place in three separate phases in accordance with the different deadlines set out in the UCITS Guidelines themselves.

The assessment published today is in two parts. The first part is a summary report which aims to facilitate readers in understanding how Members have implemented the UCITS Guidelines (Ref CESR/06-182). The second part of the information published today includes the Members own self-assessment of their implementation of the UCITS Guidelines which can be viewed 'country by country' or 'measure by measure' on CESR's website by accessing the database 'Review Panel Assessments'. How the CESR Members' have (or have not) implemented the relevant guideline is set out in the details of the self assessment.

The results of the review based on the self-assessments of Members, are very encouraging, in that:

- In relation to the first phase of the review regarding the transitional guideline concerning the availability of a simplified prospectus, the assessments show that this has been implemented in almost all Member jurisdictions, with very few exceptions;
- In relation to the second phase of the review which focused on the treatment of UCITS I funds of single fund structures authorised between 13th February 2002 & 13th February 2004, and UCITS I umbrella funds, the transitional guidelines have been implemented in all Member jurisdictions;
- In relation to the third phase of the review regarding Grandfathered UCITS I management companies managing "passportable" UCITS III funds, the transitional guidelines have been implemented in all Member jurisdictions.

The Review Panel notes out that it is necessary to exercise caution in drawing conclusions from this review as many Members have not implemented the guidelines by issuing any specific regulatory measures. Rather, in many cases, implementation has taken place through the application of daily supervisory practices, the effectiveness of which is not something that can be verified objectively by the Review Panel.

For this reason, the Review Panel has recommended that the home Member State authorities make sure that the practical implementation at the actual fund level is effective, and has drawn to the

¹ For details of other reviews currently being conducted please see notes to Editors



attention of CESR's Investment Management Expert Group the need to follow up on the efficacy of the fund level implementation of the transitional guidelines.

Kaarlo Jännäri Vice- Chair of CESR and Chairman of the Review Panel commented:

‘CESR has shifted rapidly from the provision of Level 2 technical advice to the European Commission on legislative proposals, to a greater focus on operational issues to facilitate convergent implementation of the many legislative initiatives launched under the Financial Services Action Plan. The results of this review are a prime example of Members implementation of CESR guidelines to improve convergence in practice, proving that Level 3 works in practice. However, the importance of a mechanism which facilitates CESR Members’ convergence by providing a framework to assess and review Members’ implementation of EU laws and rules is fundamental. This framework will enable the subsequent use of ‘peer pressure’ to secure convergent and consistent implementation across the EU. The results therefore, of such a review, cannot be underestimated.’



Notes for Editors:

1. The three phases of the review described included in :
 - **Phase 1: A review of the implementation of the simplified prospectus:** the UCITS Guideline for domestic UCITS I funds that domestic UCITS I funds are required to have a simplified prospectus available no later than 30th September 2005, and the UCITS Guideline for foreign UCITS I funds whereby they were allowed to market their units without having a simplified prospectus until September 2005.
 - **Phase 2 : a review of UCITS I funds of single fund structures authorised between 13th February 2002 & 13th February 2004, and UCITS I umbrella funds** – the UCITS Guidelines in this area deal with both the UCITS I funds (single fund structure) and the UCITS I umbrella funds.
 - **In relation to the UCITS I single funds:** the UCITS Guidelines required UCITS I funds authorised between this timeframe to be converted to the UCITS III regime by 31st December 2005, and the UCITS Guideline that allowed foreign UCITS I funds authorised between this period, to market their units on the basis of the UCITS I product passport until 31st December 2005.
 - **In relation to the UCITS I umbrella funds :** The UCITS Guidelines require domestic UCITS I umbrella funds which have launched additional sub-funds after 13th February 2002 to be converted to the UCITS III regime by 31st December 2005, and allowed foreign UCITS I umbrella funds, which have launched additional sub-funds after 13th February 2002 to market their units on the basis of the UCITS I passport until 31st December 2005.
 - **Phase 3: A review of Grandfathered UCITS I management companies managing “passportable” UCITS III funds** – the UCITS Guidelines in this area deal with domestic UCITS I management companies, which manage UCITS III funds, requiring them to be converted to the UCITS III regime by 30th April 2006 as well as allowing the units of foreign UCITS III funds managed by UCITS I management companies to be marketed until 30th April 2006.
2. The Review Panel is currently also undertaking a review of the implementation of the CESR Standard No 1 on financial information, and a review of Member States powers under the Market Abuse Directive and the Prospectus Directive.
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