Date: 30 January 2017
ESMA71-844457584-331

PRESS RELEASE

ESMA advocates common principles for setting up share classes in UCITS funds

The European Securities and Markets Authority (ESMA) has today issued an Opinion on the extent to which different types of units or shares (share classes) of the same UCITS fund can differ from one another, having found diverging approaches in different EU countries.

UCITS can be sold to retail investors throughout the EU. However, there is currently no common EU framework for share classes, with some countries prohibiting the set-up of different share classes within a single fund and others permitting it with varying degrees of flexibility. While all investors in a UCITS fund invest in a common pool of assets, share classes attribute different rights or features to sub-sets of investors although there is no legal segregation of assets between the share classes.

In its Opinion, addressed to national regulators, ESMA sets out four high-level principles which UCITS must follow when setting up different share classes in order to ensure a harmonised approach across the EU:

- *Common investment objective*: Share classes of the same fund should have a common investment objective reflected by a common pool of assets. ESMA considers that hedging arrangements at share class level – with the exception of currency risk hedging – are not compatible with the requirement for a fund to have a common investment objective;

- *Non-contagion*: UCITS management companies should implement appropriate procedures to minimise the risk that features specific to one share class could have a potentially adverse impact on other share classes of the same fund;

- *Pre-determination*: All features of the share class should be pre-determined before the fund is set up; and

- *Transparency*: Differences between share classes of the same fund should be disclosed to investors when they have a choice between two or more classes.

Impact on share classes

ESMA is aware that these principles will have an impact on investment fund markets in countries where share classes can currently be set up which do not comply with them. Therefore, to mitigate the impact on investors in share classes established prior to this Opinion which do not comply with these principles, ESMA is of the view that they should be allowed to continue. However, such share classes should be closed for investment by new investors within 6 months of publication of the opinion, and for additional investment by existing investors within 18 months of publication.

Notes for editors

1. Share classes are set up for a number of reasons: they may benefit the investor, for example, by allowing for a certain level of customisation, such as a particular tax treatment under national law, or a different minimum investment amount. They may also be set up because they are advantageous to the investment manager or distributor: setting up a share class is considerably quicker and approximately 5% - 20% of the cost of setting up an investment compartment within a fund.

2. In December 2014, ESMA published a discussion paper on UCITS share classes which identified diverging national practices as to the types of share class that are permitted within UCITS.

3. In April 2016, ESMA published a further discussion paper on UCITS share classes centred on a set of high-level principles regarding share classes, focused on investor protection.

4. The UCITS Directive sets a harmonised framework for investment funds that can be sold to retail investors throughout the EU. Under the UCITS Directive, funds authorised in one Member State can be marketed in another Member State using a passporting mechanism.

5. Originally introduced in 1985, the UCITS rules have been revised several times, most recently via the UCITS V Directive which came into force on 18 March 2016.

6. There are more than 29,000 UCITS funds in the EU which collectively represent over €8 trillion of assets under management.

7. ESMA's mission is to enhance investor protection and promote stable and orderly financial markets. It achieves these objectives through four activities:

    a. assessing risks to investors, markets and financial stability;

    b. completing a single rulebook for EU financial markets;

    c. promoting supervisory convergence; and

    d. directly supervising specific financial entities.

8. ESMA achieves its mission within the European System of Financial Supervision (ESFS) through active cooperation with the European Banking Authority (EBA), the European Insurance and Occupational Pensions Authority (EIOPA), the European Systemic Risk Board, and with national authorities with competencies in securities markets (NCAs).

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