

Unofficial translation of the French original

Commission for the Supervision of the Financial Sector (*Commission de Surveillance du Secteur Financier*)

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UCITS: PUBLICATION OF THE DOCUMENT "QUESTIONS AND ANSWERS: RISK MEASUREMENT AND CALCULATION OF GLOBAL EXPOSURE AND COUNTERPARTY RISK FOR UCITS" BY ESMA AND CLARIFICATIONS FROM THE CSSF REGARDING THE CONSIDERATION OF THESE CLARIFICATIONS BY LUXEMBOURG UCITS

The document "*Questions and Answers: Risk Measurement and Calculation of Global Exposure and Counterparty Risk for UCITS (2012 / ESMA / 429)*" (hereafter "document ESMA/429"), published on 9 July 2012 and available on the website of the European Securities and Markets Authority (ESMA) under <http://www.esma.europa.eu/content/Questions-and-Answers-Risk-Measurement-and-Calculation-Global-Exposure-and-Counterparty-Risk>, provides clarifications on a number of points contained in the document "*CESR's guidelines on Risk Measurement and the Calculation of Global Exposure and Counterparty Risk for UCITS*" (ref. [CESR/10-788](#)) of 28 July 2010 (hereafter "CESR/10-788").

In this context, the CSSF wishes to bring the following clarifications to the attention of the UCITS industry in respect of the disclosure requirements, in terms of leverage, in the prospectus and the annual report for those **UCITS determining the global exposure as per Article 42(3) of the Law of 17 December 2010 using a Value-at-Risk (VaR) approach.**

1. ESMA Clarifications – leverage disclosure

ESMA states, pursuant to Boxes 24 and 25 of the CESR/10-788 document, that the leverage to be included in the prospectus and the annual report for those UCITS determining the global exposure using a VaR approach, is to be calculated on the basis of the sum of the notionals of derivative instruments used while allowing these UCITS to supplement this information using (a) leverage figure(s) calculated through the commitment approach.

Consequently, the sum of the notionals approach is now the standard reference in terms of leverage disclosure.

2. Consideration of ESMA clarifications by Luxembourg UCITS

The CSSF would first like to point out that the calculation of leverage by those UCITS determining the global exposure using a VaR approach is intended, in particular, to meet the following regulatory requirements:

- to allow regular monitoring of leverage as required by point 1(g) of Box 22 of the CESR/10-788 document (which *inter alia* would also enable the checking *ex post* of the expected level of leverage presented in the prospectus);

- to determine the leverage data needed in order to disclose in the annual report the leverage level reached during the last financial year.

On the basis of the ESMA clarifications, the CSSF requires that, from the moment they are launched, newly created UCITS (including UCITS compartments) determine the leverage level based on the sum of the notionals approach.

Secondly, the CSSF requires that existing UCITS (including UCITS compartments) determine as quickly as possible, and at the latest from 1 January 2013, the leverage level based on the sum of the notionals approach. Until then, they may continue to use the commitment approach.

In addition to calculating leverage using the sum of the notionals approach (immediately for newly created UCITS and at the latest from 1 January 2013 for existing UCITS), UCITS may still carry out the calculation using the commitment approach.

As regards the publication of leverage in the prospectus, the CSSF considers that:

- newly created UCITS (including UCITS compartments) must, from the moment of launching, base the disclosure of leverage in the prospectus on the sum of the notionals approach.

This information may be complemented by (a) leverage figure(s) determined on the basis of the commitment approach (provided that for each figure mentioned, a clear and precise explanation is given of the underlying method of calculation), or by further explanations, respectively.

- existing UCITS (including UCITS compartments) must adjust their prospectus (if necessary) basing the leverage disclosure on the sum of the notionals approach during an update of the prospectus, which must be performed at the latest by 31 December 2012.

As regards the publication of leverage in the annual report, the CSSF considers that for any financial year ending after 31 December 2012, the leverage information to be included in the annual report must, for the period after the 1 January 2013, be based on the sum of the notionals approach. At the latest for the financial year ending on 31 December 2013, this information must be based entirely on the sum of the notionals approach, which does not, however, prevent the UCITS from complementing this information by means of other figures, such as those derived from a calculation using the commitment approach, or by further explanation, respectively.

Thus, for example, UCITS having determined the leverage up to 31 December 2012 using the commitment approach and closing their financial year on 31 January 2013 must include (at least) the following leverage information (based on both the sum of the notionals approach and the commitment approach) in the annual report:

- it must include a leverage figure determined using the sum of the notionals approach covering the period 1 January 2013 to 31 January 2013, while indicating clearly and precisely the calculation approach used and the period of observation underlying the calculation;

- it must (in order to have a full one-year period of information regarding leverage) include a leverage figure determined using the commitment approach for the period running from 1 February 2012 to 31 December 2012 (the period during which this methodology was the standard methodology), while indicating clearly and precisely the calculation approach used and the period of observation underlying the calculation.

3. Updating the regulatory framework as regards risk management following publication of the document ESMA/429

The CSSF will be updating its Circular 11/512 in order to incorporate the clarifications set out in the document ESMA/429 on leverage disclosure in the prospectus and the annual report.

Luxembourg, 31 July 2012