

ELVINGER, HOSS & PRUSSEN

LUXEMBOURG LAW FIRM

COMMISSION for the SUPERVISION of the FINANCIAL SECTOR

Unofficial translation of the French original version

Luxembourg, 2 December 2014

To all Luxembourg undertakings for collective investment and to all Luxembourg specialised investment funds, as well as to those involved in the operation and monitoring of these undertakings

CSSF CIRCULAR 14/598

Re: Opinion of the European Securities and Markets Authority (ESMA) on the review of "CESR's Guidelines on a common definition of European money market funds" (CESR/10-049)

Ladies and Gentlemen,

The purpose of this circular is to implement the amendments introduced by ESMA's Opinion (the "Opinion") of 22 August 2014 (Ref. ESMA/2014/1103) concerning "CESR's Guidelines on a common definition of European money market funds" (Ref. CESR/10-049) (the "MMF Guidelines") into the Luxembourg regulatory framework governing undertakings for collective investment subject to the Law of 17 December 2010 ("UCIs") and specialised investment funds subject to the Law of 13 February 2007 ("SIFs").

As a reminder, the MMF Guidelines were published on 19 May 2010 by the Committee of European Securities Regulators (now ESMA) and were implemented in the Luxembourg regulatory framework through CSSF Circular 11/498. These guidelines, in application of Box 1, apply to all UCIs or SIFs labelling or marketing themselves as money market funds.

ESMA's Opinion meets the requirements of Article 5(b)1. of Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies (the "Regulation"), as amended by Regulation (EU) No 462/2013 of the European Parliament and of the Council of 21 May 2013, according to which the European Supervisory Authorities shall review and remove, where appropriate, all references to credit ratings in existing guidelines and

recommendations where such references have the potential to trigger sole or mechanistic reliance on these credit ratings.

In accordance with the aforementioned amended Regulation, ESMA reviewed the MMF Guidelines and came to the conclusion that there were references to credit ratings that have the potential to trigger sole or mechanistic reliance on credit ratings in relation to the assessment of the credit quality of money market instruments in which money market funds may invest.

Consequently, ESMA is of the view that point 4 of Box 2 of the MMF Guidelines relating to short-term money market funds, point 2 of Box 3 relating to money market funds and the explanatory texts relating thereto should be amended.

These amendments provide notably that management companies (or investment companies which have not designated a management company) shall apply an internal documented assessment of the credit quality of money market instruments allowing them to determine whether a money market instrument is of high quality.

More specifically, the points of the Guidelines referred to above were replaced by the following:

Point 4 of Box 2:

"4. For the purposes of point 3a), ensure that the management company performs its own documented assessment of the credit quality of money market instruments that allows it to consider a money market instrument as high quality. Where one or more credit rating agencies registered and supervised by ESMA have provided a rating of the instrument, the management company's internal assessment should have regard to, inter alia, those credit ratings. While there should be no mechanistic reliance on such external ratings, a downgrade below the two highest short-term credit ratings by any agency registered and supervised by ESMA that has rated the instrument should lead the manager to undertake a new assessment of the credit quality of the money market instrument to ensure it continues to be of high quality."

Point 2 of Box 3:

"2. May, as an exception to the requirement of point 4 of Box 2, hold sovereign issuance of a lower internally-assigned credit quality based on the MMF manager's own documented assessment of credit quality. Where one or more credit rating agencies registered and supervised by ESMA have provided a rating of the instrument, the management company's internal assessment should have regard to, inter alia, those credit ratings. While there should not be mechanistic reliance on such external ratings, a downgrade below investment grade or any other equivalent rating grade by any agency registered and supervised by ESMA that has rated the instrument should lead the manager to undertake a new assessment of the credit quality of the money market instrument to ensure it continues to be of appropriate quality. 'Sovereign issuance' should be understood as money market instruments issued or guaranteed by a central, regional or local authority or central bank of a Member State, the European Central Bank, the European Union or the European Investment Bank."

This circular enters into force with immediate effect.

The Opinion, which includes the revised version of the guidelines, is annexed to this circular. It is also available on ESMA's website at <http://www.esma.europa.eu/>.

COMMISSION for the SUPERVISION of the FINANCIAL SECTOR

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