

## PRESS RELEASE 12/29

### ■ UCITS: PUBLICATION OF THE DOCUMENT "QUESTIONS AND ANSWERS: RISK MEASUREMENT AND CALCULATION OF GLOBAL EXPOSURE AND COUNTERPARTY RISK FOR UCITS" BY ESMA AND CLARIFICATION BY THE CSSF FOR THE LUXEMBOURG UCITS

The document "Questions and Answers: Risk Measurement and Calculation of Global Exposure and Counterparty Risk for UCITS (2012 / ESMA / 429)" (hereafter the "ESMA/429 document") published on 9 July 2012 is 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> and provides clarification on a certain number of points of 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 would like to draw to the attention of UCITS the following specifications regarding the transparency requirements in relation to leverage disclosed in the prospectus and annual report by **UCITS determining global exposure as per Article 42(3) of the law of 17 December 2010 through a Value-at-Risk (VaR) approach.**

#### 1. Clarification of ESMA - transparency in relation to leverage

ESMA specifies, in accordance with boxes 24 and 25 of CESR/10-788 document, that the level of leverage to be included in the prospectus and annual report by UCITS calculating the global exposure using the VaR approach shall be calculated as the sum of the notionals of the derivatives used allowing these UCITS at the same time to complete this information with a level of leverage calculated based on the commitment approach.

Consequently, the approach based on the sum of the notionals represents henceforth the reference approach for leverage transparency.

#### 2. The recognition of ESMA's specifications by Luxembourg UCITS

First, the CSSF would like to remind that the calculation of leverage by UCITS calculating the global exposure based on the VaR approach aims to satisfy the following regulatory requirements:

- allowing a regular monitoring of the leverage as required under point 1(g) of box 22 of CESR/10-788 document (which enables, among others, to verify ex post the expected level of leverage presented in the prospectus);
- determining the required leverage data in order to be able to report the level of leverage reached during the last financial year in the annual report.

Based on these ESMA's specifications, the CSSF requires from newly created UCITS (including UCITS' sub-funds) that they determine the level of the leverage based on the sum of the notionals as soon as they start.

Second, the CSSF requires from existing UCITS (including UCITS' sub-funds) to determine the level of leverage based on the sum of the notionals as fast as possible and at the latest as from 1 January 2013. In the meantime, they may continue to use the commitment approach.

Besides the calculation of the leverage based on the sum of the notionals (directly for newly created UCITS and at the latest as from 1 January 2013 for the existing UCITS), the UCITS may always calculate it based on the commitment approach.

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

- newly created UCITS (including UCITS' sub-funds) shall base the transparency in relation to the leverage in the prospectus on the sum of the notionals as soon as they start.

This information may be completed with the leverage determined based on the commitment approach (provided that the underlying calculation method is clearly and precisely indicated for every mentioned figure) or with other additional explanations.

- existing UCITS (including UCITS' sub-funds) shall adapt their prospectus (if necessary) by basing the leverage transparency on the sum of the notionals when updating the prospectus, this update having to be made at the latest on 31 December 2012.

For the publication of the leverage in the annual report, the CSSF considers that for every financial year closing after 31 December 2012, the information on the leverage to be included in the annual report shall be based on the sum of the notionals for the period following 1 January 2013. This information shall be entirely based on the sum of the notionals at the latest for the financial year closing as at 31 December 2013 which does not prevent the UCITS to supplement this information with other figures, as those resulting from a calculation based on the commitment approach or with other additional explanations, respectively.

Thus, for example, UCITS which calculated the leverage until 31 December 2012 using the commitment approach and closing their financial year on 31 January 2013 shall (at least) disclose the following leverage information (based both on the sum of the notionals and commitment approach) in the annual report:

- they shall disclose a leverage figure determined based on the sum of the notionals and covering the period from 1 January 2013 to 31 January 2013 and they shall clearly and precisely indicate the calculation approach used and the historical observation period underlying the calculation;
- they shall (in order to have a complete information period of one year as regards leverage) disclose the leverage figure determined based on the commitment approach for the period from 1 February 2012 to 31 December 2012 (period during which this approach represented the reference approach) and they shall clearly and precisely indicate the calculation method used and the historical observation period underlying the calculation.

### **3. Update of the regulatory framework for risk management following the publication of the ESMA/429 document**

The CSSF will then update Circular CSSF 11/512 in order to include the specifications introduced by the ESMA/429 document on the leverage transparency in the prospectus and annual report.

Luxembourg, 31 July 2012