

In case of discrepancies between the French and the English text, the French text shall prevail

Luxembourg, 25 May 2005

To all undertakings for collective investment and to those who act in relation to the operation and supervision of such undertakings

CIRCULAR CSSF 05/186

Re: Guidelines of the Committee of European Securities Regulators (CESR) regarding the application of transitional measures resulting from Directives 2001/107/EC and 2001/108/EC (UCITS III) amending Directive 85/611/EEC (UCITS I)

Ladies and Gentlemen,

The purpose of this circular is to draw the attention of undertakings for collective investment in transferable securities subject to Part I of the amended law of 20 December 2002 (hereafter "UCITS") to the publication of the guidelines of the Committee of European Securities Regulators (CESR) concerning the application of the transitional provisions of the Directives 2001/107/EC and 2001/108/EC (UCITS III) amending Directive 85/611/EEC (UCITS I).

This document, which has been published by CESR on 3 February 2005 with reference 04/-434b, can be consulted on the website of CESR at the address <http://www.cesr-eu.org>.

In this context, it can be recalled that Directives 2001/107/EC and 2001/108/EC, which had to be implemented in the legislations of the EU Member States by 13 February 2004 at the latest, comprise transitional provisions, also called "grandfathering provisions". Under the terms of Directives 2001/107/EC and 2001/108/EC, UCITS and management companies subject to the amended Directive 85/611/EEC must comply with the requirements of the Directive by 13 February 2007 at the latest.

Directives 2001/107/EC and 2001/108/EC have been implemented into Luxembourg law by the law of 20 December 2002 relating to undertakings for collective investment (UCI).

CESR's guidelines aim at putting an end to the divergent interpretations of the transitional provisions by the supervisory authorities of the EU Member States. They relate to the transitional provisions concerning UCITS and management companies, to the provisions concerning the simplified prospectus and to the scope of the European passport for management companies and for UCITS.

CESR's guidelines fix a series of new deadlines for certain UCITS and for certain management companies.

These new deadlines imply that, in order to comply with CESR's guidelines, certain UCITS and certain management companies have to apply the rules resulting from Directives 2001/107/EC and 2001/108/EC before 13 February 2007.

The following extracts, which are of particular interest, can be highlighted:

*) A grandfathered management company is allowed to launch UCITS of the UCITS III type until 30 April 2006 if it employs an appropriate risk-management process. After this date the management company must meet the requirements of the UCITS III Directive. Management companies which have launched UCITS of the UCITS III type before 30 April 2006 must have received by 30 April 2006 at the latest from the competent authority the authorisation as management company complying with the requirements of the UCITS III Directive. This should be stated by a special confirmation from the competent supervisory authority.

*) A grandfathered UCITS I umbrella fund is allowed to launch new UCITS I sub-funds until 31 December 2005. Grandfathered UCITS I umbrella funds which have launched a sub-fund since 13 February 2002 must meet the requirements of the UCITS III Directive by 31 December 2005 at the latest.

*) All UCITS (comprising UCITS of the UCITS I type) must have a simplified prospectus as from 30 September 2005 at the latest.

Concerning the requirement to have a simplified prospectus, it can be noted that it appears from the provisions of the amended law of 20 December 2002 concerning UCIs and the provisions of Circular CSSF 03/122 concerning clarifications on the simplified prospectus that UCITS of the UCITS III type must publish a simplified prospectus when they are subject to Part I of this law.

It can be noted that UCITS of the UCITS I type which have been created before 13 February 2002 and which have not launched new sub-funds since 13 February 2002 and management companies created before 13 February 2004 which only manage UCITS of

the UCITS I type which have not launched new sub-funds since 13 February 2002 have time until 13 February 2007 to comply with Directives 2001/107/EC and 2001/108/EC.

All supervisory authorities which are members of CESR have undertaken to apply CESR's guidelines.

It should be highlighted that it is highly recommended that the UCITS concerned comply with the deadlines fixed by CESR's guidelines concerning the transitional provisions resulting from Directives 2001/107/EC and 2001/108/EC.

Indeed, non-compliance with the deadlines fixed by CESR's guidelines concerning the transitional provisions resulting from Directives 2001/107/EC and 2001/108/EC may jeopardise the marketing in other EU Member States of the UCITS and management companies concerned under the European passport.

We request that you take into account the deadlines fixed by CESR's guidelines and to take these in consideration for the purpose of the procedures of conversion of UCITS and management companies under the regime of Part I and Chapter 13, respectively, of the amended law of 20 December 2002 concerning UCITS.

We invite you to consult CESR's guidelines concerning the transitional provisions of Directives 2001/107/EC and 2001/108/EC.

Yours sincerely,

COMMISSION OF THE SUPERVISION OF THE FINANCIAL SECTOR

Simone DELCOURT
Director

Arthur PHILIPPE
Director

Jean-Nicolas SCHAUS
Director General