

PRESS RELEASE

ESMA publishes ETF guidelines and consults on repo arrangements

The European Securities and Markets Authority (ESMA) has today [published](#) guidelines on Exchange-Traded Funds (ETFs) and other UCITS issues. These guidelines will apply to national securities markets regulators and UCITS management companies.

UCITS are authorised funds which can be sold to retail investors across the European Union. Today's guidelines set out the information that should be given to investors about index-tracking UCITS and UCITS ETFs, together with specific rules for UCITS when entering into over-the-counter financial derivative transactions and efficient portfolio management techniques. The guidelines also set out the criteria for financial indices in which UCITS may invest.

The guidelines were developed following a review of the current regulatory regime by ESMA which was found to be insufficient to address the specific features and risks associated with these types of funds and techniques.

Steven Maijor, ESMA Chair, said:

“These comprehensive guidelines are aimed at strengthening investor protection and harmonising regulatory practices across this important EU fund sector. They increase the level and the quality of information provided by UCITS to their investors, clarify the criteria for the management of collateralised transactions such as securities lending, repo and reverse repos and OTC derivatives, and set out the types of financial index in which UCITS may invest.

Furthermore, these guidelines are a valuable response to many of the issues identified in the on-going debate on shadow banking and will constitute an important step in the development of the regulatory framework of UCITS.

Additionally, we are launching a specific consultation on repo and reverse repo arrangements when used by UCITS. The draft guidelines provide some flexibility in the type of arrangements into which UCITS may enter but provide adequate safeguards to ensure that UCITS can continue meeting investors' redemption requests.”

The guidelines' key provisions are:

- UCITS that fall under the definition of UCITS ETFs will have to carry the identifier “UCITS ETF” in their name;
- UCITS ETFs will have to ensure appropriate redemption conditions for secondary market investors by opening the fund for direct redemptions when the liquidity in the secondary market is not satisfactory;
- UCITS entering into efficient portfolio management techniques (EPM) like securities lending activities will have to inform investors clearly about these activities and the related risks. All revenues net of operating costs generated by these activities should be returned to the UCITS. When a UCITS enters into securities lending arrangements, it should be able at any time to recall any securities lent or terminate any agreement into which it has entered;
- UCITS receiving collateral to mitigate counterparty risk from OTC financial derivative transactions or EPM techniques should ensure that the collateral complies with very strict qualitative criteria and specific limits in relation to the diversification; and
- UCITS investing in financial indices will have to ensure that investors are provided with the full calculation methodology of financial indices. Also, UCITS should only invest in financial indices which respect strict criteria regarding, inter alia, the rebalancing frequency and their diversification.

Consultation paper on the treatment of repurchase and reverse repurchase agreements

ESMA is seeking views on the appropriate treatment of repo and reverse repo arrangements in the context of the guidelines on ETFs and other UCITS issues.

In particular, ESMA is proposing a distinct regime for repo and reverse repo arrangements which, unlike securities lending arrangements, would allow a proportion of the assets of the



UCITS to be non-recallable at any time at the initiative of the UCITS. The proposed guidelines include safeguards to ensure that the counterparty risk arising from these arrangements is limited, and that UCITS entering into such arrangements can continue to execute redemption requests. The consultation period will run until 25 September 2012.

Once adopted by ESMA, the guidelines on repo and reverse repo arrangements will be integrated into the guidelines on ETFs and other UCITS issues in order to have a single package of rules.

The final guidelines, comprising both the guidelines published today and the rules on repo and reverse repo agreements, will become effective two months after publication on the ESMA website of the translations into the official languages of the European Union.

Notes for editors

1. ESMA/2012/475 *Report – [Guidelines on ETFs and other UCITS issues and Consultation Paper on recallability of repo and reverse repo arrangements](#)*.
2. ESMA/2012/44 *[Consultation Paper - ESMA's guidelines on ETFs and other UCITS issues](#) 30 January 2012.*
3. ESMA is an independent EU Authority that was established on 1 January 2011 and works closely with the other European Supervisory Authorities responsible for banking (EBA), and insurance and occupational pensions (EIOPA).
4. ESMA's mission is to enhance the protection of investors and promote stable and well-functioning financial markets in the European Union (EU). As an independent institution, ESMA achieves this aim by building a single rule book for EU financial markets and ensuring its consistent application across the EU. ESMA contributes to the regulation of financial services firms with a pan-European reach, either through direct supervision or through the active co-ordination of national supervisory activity.

Further information:

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