



Date: 31 October 2008

Ref. CESR/08-880

**PRESS RELEASE**

**CESR delivers its response to the European Commission's request for assistance on the UCITS management company passport**

CESR publishes today its advice to the European Commission (Commission) on the UCITS management company passport (Ref. CESR/08-867). The advice follows a short public consultation carried out in the first half of October, as well as a call for evidence published in July. CESR also held an open hearing at its premises on 13 October.

The Commission requested assistance from CESR on 16 July 2008 on supervisory issues which would arise in the event that a UCITS was managed by a management company situated in another Member State (the management company passport). The request followed publication of the Commission's proposals for an improved EU framework for investment funds, to be introduced via revisions to the UCITS Directive (for further information on this, see the Notes for Editors). The Commission's request to CESR is designed to facilitate the development of provisions permitting the introduction of a management company passport under conditions that are consistent with a high level of investor protection. The Commission has stated that, following receipt of CESR's advice, it aims to come forward with an appropriate legislative proposal in time for its adoption during the current legislature.

A number of key points covered under the different sections of CESR's advice are set out below:

**Definition of domicile:** CESR sets out detailed provisions designed to ensure clarity on the home Member State of the management company, the UCITS and the depositary. This section includes the introduction of a new concept, that of the local point of contact, which should be put in place for remotely managed contractual funds.

**Applicable law and supervisory responsibilities:** CESR's advice included detailed provisions on the applicable law and allocation of responsibilities both in the case of free provision of services and services provided via a branch. This section also sets out provisions designed to facilitate co-operation between competent authorities, including mutual delegation of supervisory tasks and the possibility to establish colleges of supervisors.

**Authorisation procedure for UCITS funds whose management company is established in another Member State:** The advice sets out clearly the procedure to be followed when a UCITS is authorised under the framework of the management company passport. This includes provisions on the conditions under which the competent authority of the UCITS home Member State should approve the choice of the management company.

**On-going supervision of the management of the fund:** CESR's advice sets out detailed provisions on the flow of information from the entities involved to the competent authorities, and among the entities themselves. There are also provisions relating to the role of auditors in the context of the passport.



**Dealing with breaches of rules governing the management of the fund:** The advice covers circumstances in which a competent authority wishes to take enforcement action against an entity established in a different Member State. There are also specific provisions designed to ensure fair treatment of unit-holders in the case of an infringement.



## Notes for Editors:

1. For further information on the Commission's proposed improvements to the EU framework for investment funds (UCITS Directive), please visit:  
[http://ec.europa.eu/internal\\_market/investment/legal\\_texts/index\\_en.htm#framework](http://ec.europa.eu/internal_market/investment/legal_texts/index_en.htm#framework)
2. Following receipt of the Commission's request for assistance, CESR launched a call for evidence on 17 July 2008. 29 responses to the call for evidence were received and are available on CESR's website. In order to obtain further input from external stakeholders, CESR arranged an open hearing on 13 October 2008 at its headquarters in Paris.
3. CESR also carried out a short consultation on its draft advice and received 27 responses; these were largely split between asset/fund management firms or associations, banking associations and entities involved in fund administration. The responses are available on CESR's website under the heading 'Consultations' at [www.cesr.eu](http://www.cesr.eu).
4. CESR is also publishing the cover letter sent to the Commission along with the advice (Ref. CESR/08-866).
5. Preparation of CESR's advice has been undertaken by the CESR Expert Group on Investment Management, which is chaired by Mr Lamberto Cardia, Chairman of the Italian securities regulator, the Commissione Nazionale per le Società e la Borsa (CONSOB).
6. CESR is an independent Committee of European Securities Regulators. The role of the Committee is to:
  - Improve co-ordination among securities regulators;
  - Act as an advisory group to assist the EU Commission, in particular in its preparation of draft implementing measures in the field of securities;
  - Work to ensure more consistent and timely day to day implementation of community legislation in the Member States.
  - The Committee was established under the terms of the European Commission's decision of 6 June 2001 (2001/1501/EC). It is one of the two committees envisaged in the Final Report of the Group of Wise Men on the regulation of European securities markets. Baron Alexandre Lamfalussy chaired this group. The report itself was endorsed by the European Council and the European Parliament. The relevant documents are available on the CESR website.
7. Each Member State of the European Union has one member in the Committee. The members are nominated by the Member States and are the heads of the national public authorities competent in the field of securities. The European Commission has nominated as its representative the Director General of the DG Market. Furthermore, the securities authorities of Norway and Iceland are also represented at a senior level.
8. For further information please contact:

CESR

Carlo Comporti                      **or**  
Secretary General of CESR

Victoria Powell  
Director of Communications

Tel: +33 (0)1.58 36 43 21    Email: [secretariat@cesr.eu](mailto:secretariat@cesr.eu)