



## Guidelines

### Confirmation of compliance with guidelines

Member/EEA State: **Bulgaria**

Competent authority: **Financial Supervision Commission**

Title of guidelines: **Guidelines on Risk Measurement and the Calculation of  
Global Exposure for certain types of structured UCITS**

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I am authorised to confirm compliance with the guidelines on behalf of my competent authority:  
 **Yes**

The competent authority complies or intends to comply with the guidelines:

**Yes**       **No**       **The guidelines do not apply**

My competent authority does not, and does not intend to, comply with the guidelines for the following reasons<sup>1</sup>:

The guidelines do not apply to my competent authority for the following reasons:

<sup>1</sup> In cases of partial compliance, please include the extent of compliance and of non-compliance. The fact that the competent authority does not intend to comply will be published. ESMA's Chair will decide whether to publish the reasons in accordance with the process established in ESMA's Board of Supervisors decision on the development of technical standards, guidelines and recommendations (ESMA/2011/BS/4a).



European Securities and  
Markets Authority

# **Guidelines for competent authorities and UCITS management companies**

Guidelines on risk measurement and the calculation of global exposure for certain types  
of structured UCITS





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## I. Scope

1. These guidelines apply to *competent authorities* and *UCITS management companies*.

## II. Definitions

2. For the purposes of these guidelines terms shown in italics have the meaning defined in the table below.

<i>Competent authorities</i>	Authorities designated under Article 97 of the <i>UCITS Directive</i>
<i>UCITS management company</i>	a company, the regular business of which is the management of UCITS in the form of common funds or of investment companies (collective portfolio management of UCITS)
<i>UCITS Directive</i>	Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (recast)
<i>General Guidelines</i>	Guidelines on Risk Measurement and the Calculation of Global Exposure and Counterparty Risk for UCITS published by the Committee of European Securities Regulators (Ref. CESR/10-788)
<i>ESMA</i>	the European Securities and Markets Authority

## III. Purpose

3. These guidelines supplement the requirements on calculation of global exposure relating to derivative instruments in Article 51(3) of the *UCITS Directive* and Articles 40 to 42 of Commission Directive 2010/43/EU. CESR was of the view that these provisions should be supplemented with more detailed guidelines on the calculation of global exposure, in order to avoid a situation in which the calculation method used by a UCITS could vary significantly depending on the rules of its home Member State. This led to the adoption of the *General Guidelines* in July 2010.
4. The purpose of these guidelines is to provide certain types of structured UCITS as described in guideline 1 with an optional regime for the calculation of the global exposure using the commitment approach.

#### **IV. Compliance and reporting obligations**

##### **Status of the guidelines**

5. This document contains guidelines issued under Article 16 of the ESMA Regulation<sup>1</sup>. In accordance with Article 16(3) of the Regulation, competent authorities and financial market participants must make every effort to comply with the guidelines.
6. Guidelines set out *ESMA*'s view of appropriate supervisory practices within the European System of Financial Supervision or of how Union law should be applied in a particular area. *ESMA* therefore expects all *competent authorities and* financial market participants to whom guidelines apply to comply with guidelines unless otherwise stated. Competent authorities to whom guidelines apply should comply by incorporating them into their supervisory practices, including where particular guidelines within the document are directed primarily at financial market participants.

##### **Reporting requirements**

7. *Competent authorities* must notify *ESMA* whether they comply or intend to comply with these guidelines, or with reasons for non-compliance, no later than 2 months after date of publication.
8. *UCITS management companies* are not required to report whether they comply with these guidelines.

#### **V. Guidelines on risk measurement and the calculation of global exposure for certain types of structured UCITS**

9. UCITS which comply in full with the criteria in paragraph 10 may calculate global exposure using the commitment approach in the way described in paragraph 11.
10. The criteria are:
  - a) the UCITS is passively managed and structured to achieve at maturity the pre-defined payoff and holds at all times the assets needed to ensure that this pre-defined payoff will be met;
  - b) the UCITS is formula based and the pre-defined payoff can be divided into a limited number of separate scenarios which are dependent on the value of the underlying assets and which offer investors different payoffs;
  - c) the investor can only be exposed to one payoff profile at any time during the life of the UCITS;

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<sup>1</sup> Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC.

- d) the use of the commitment approach as defined in the *General Guidelines* to calculate global exposure for the individual scenarios is appropriate taking into account the requirements of Box 1 of the *General Guidelines*;
  - e) the UCITS has a final maturity not exceeding 9 years;
  - f) the UCITS does not accept new subscriptions from the public after the initial marketing period;
  - g) the maximum loss the UCITS can suffer when the portfolio switches from one payoff profile to another must be limited to 100% of the initial offer price; and
  - h) the impact of the performance of a single underlying asset on the payoff profile when the UCITS switches from one scenario to another complies with the diversification requirements of the UCITS Directive based on the initial net asset value of the UCITS.
11. The calculation method is the commitment approach as defined in the *General Guidelines* but adjusted in the following way:
- a) The formula-based investment strategy for each predefined payoff is broken down into individual payoff scenarios.
  - b) The financial derivative instruments implied in each scenario are assessed to establish whether the derivative may be excluded from the calculation of global exposure under the provisions of Box 3 or Box 4 of the *General Guidelines*.
  - c) Finally the UCITS calculates the global exposure of the individual scenarios to assess compliance with the global exposure limit of 100% of NAV.
12. UCITS which satisfy the criteria set out in paragraphs 10 (a), 10 (b), 10 (c) and 10 (d) above and which were authorised before 1 July 2011 are not required to comply with Boxes 1 to 25 of the *General Guidelines* provided they comply with any rules set by their home State *competent authority* for the calculation of global exposure.
13. UCITS management companies which make use of the approach for the calculation of global exposure outlined in these guidelines should ensure that the prospectus:
- a) contains full disclosure regarding the investment policy, underlying exposure and payoff formulas in clear language which can be easily understood by the retail investor; and
  - b) includes a prominent risk warning informing investors who redeem their investment prior to maturity that they do not benefit from the predefined payoff and may suffer significant losses.