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CSSF issues FAQ on UCITS eligibility and diversification rules

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Earlier this week the *Commission de Surveillance du Secteur Financier* ("**CSSF**") has put online a document titled "Frequently Asked Questions concerning the Luxembourg Law of 17 December 2010 relating to undertakings for collective investment" ("**UCI FAQ**").

This first version of the UCI FAQ covers a total of ten questions and answers in relation to UCITS eligible assets and risk diversification rules. The UCI FAQ generally reflects the longstanding practice of the CSSF. In particular, the following points are noticeable:

- **UCITS investing into SIFs and SICARs**. UCITS are permitted to invest in regulated open-ended funds, other than UCITS, if they comply with the conditions set out in article 2(2) and article 41(1)(e) of the UCI Law. The CSSF clarified the different steps to be considered in order to make that determination. Most importantly, the CSSF clarified that specialised investment funds (SIFs) and investment companies in risk capital (SICARs) may be eligible investments provided that they qualify as AIFs under AIFMD and meet the above requirements.

- **Eligibility of certain non-EU OTC bond markets**. UCITS are permitted to trade transferable securities and money market instruments on regulated markets outside the EU under the ordinary diversification limits of article 41(1) of the UCI Law, provided that these markets meet certain conditions. The CSSF reconfirmed that the following OTC bond markets are to be considered as "regulated markets" for the purposes of article 41 (1) of the UCI Law: the US OTC Fixed Income Bond Market, the Hong Kong OTC Corporate Bond Market, the China Interbank Bond Market, and the OTC bond market organised by the International Capital Market Association (ICMA).

- **Control and holding limits**. Article 48(2) of the UCI Law sets out certain control/holding limits. Where a UCITS is organized as an umbrella fund, the CSSF has clarified that these control/holding limits apply at the level of each individual sub-fund.

The UCI FAQ also addresses a number of other matters, such as the eligibility of structured financial instruments, investments in non-UCITS ETFs, financial indices, and investments permissible under the "trash ratio".

It is expected that there will be regular updates of the UCI FAQ. As such the UCI FAQ is a welcome tool providing useful guidance to the Luxembourg fund industry.

The UCI FAQ in its version dated 8 December 2015 may be downloaded here.

A copy of the UCI Law may be downloaded here.

We remain at your disposal for further questions.

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