European Fund and Asset Management Association

EFAMA response to the Basel Committee's consultation regarding the international framework for liquidity risk measurement, standards and monitoring

EFAMA[1] is grateful for the opportunity to respond to the consultation launched by the Basel Committee on Banking Supervision on liquidity risk.

As banks represent an important investor group, the application of some of the proposals set out in the consultative document would have a considerable indirect impact on the investment fund industry. We are particularly concerned about the consequences of the proposed definition of "high quality liquid assets" for European investment funds.

Art.1 (2) of Directive 85/611/EEC defines undertakings for collective investment in transferable securities (UCITS) as undertakings with the sole object being the collective investment in transferable securities and/or in other liquid financial assets (referred to in Art. 19(1) of Directive 85/611/EEC) of capital raised from the public and which operates on the principle of risk-spreading and the units of which are, at the request of holders, re-purchased or redeemed, directly or indirectly, out of those undertakings' assets. The financial assets and their weighting are strictly regulated by the Directive and are characterized by their nature of being able to be redeemed on a daily basis (See Art. 19 of Directive 85/611/EEC or Art. 49ff of Directive 2009/65/EC). Moreover, the issue of liquidity is one of the fundamental concerns of the Implementing Directive on Eligible Assets (Directive 2007/16/EC).

It is important to stress that a UCITS may only suspend the re-purchase or redemption of its units in exceptional cases where circumstances so require and such suspension is justified having regard to the interests of the unit-holders (see Art. 37 of Directive 85/611/EEC or Art. 84 of Directive 2009/65/EC). As these provisions indicate, UCITS are characterized by their high liquidity, which is underscored by the respective statutory obligations that benefit unit-holders of UCITS. This should justify the inclusion of UCITS in the list of "high quality liquid assets".

[1]EFAMA is the representative association for the European investment management industry. EFAMA represents through its 26 member associations and 42 corporate members about EUR 13 trillion in assets under management of which EUR 7 trillion managed by 53,000 investment funds at end 2009. For more information, please visit www.efama.org.

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The same should apply to nationally regulated funds that are identical to UCITS with regard to their investment restrictions and redemption rules. Practically, there exist nationally regulated fund vehicles which cannot acquire UCITS status for the only reason that their units are not offered to the public, but solely to institutional investors such as credit institutions. From the point of view of liquidity, however, these vehicles are identical to UCITS funds.

Existing national regulation, e.g. in Germany, Austria and France, qualifies units in UCITS and UCITS-like institutional funds as highly liquid assets. This is of particular importance for smaller and medium-sized credit institutions, as investment in such funds enables them to hold a portfolio which is not only liquid, but also highly diversified. If the definition of highly liquid assets would be reduced to direct investments in certain securities, many credit institutions would be forced to concentrate on a few titles as they are lacking capacities for ongoing choice and supervision of a diversified portfolio. In case of emergency scenarios, such poorly diversified portfolios could become altogether less liquid than an indirect investment in a well-diversified UCITS portfolio.

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