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ESMA: Guidelines on ETFs and other UCITS issues

This consultation paper sets out ESMA's proposals for guidelines on UCITS ETFs, index-tracking UCITS, efficient portfolio management techniques, total return swaps and strategy indices for UCITS. The formal proposals for guidelines are contained in the boxes in Sections II to VIII of the paper, while further commentary and explanation is provided in the explanatory text. Responses are required by 30 March 2012. ESMA notes that it will take into account responses to the paper in finalising the guidelines for adoption in Q2 2012. (30/01/12) <http://www.esma.europa.eu/system/files/2012-43.pdf> http://www.esma.europa.eu/system/files/2012-44_0.pdf (NB: over 70 pages long)

DP12/1: Implementation of the Alternative Investment Fund Managers Directive

FSA has published this DP, which asks for views about the potential impact of the AIFM Directive, which will be implemented in 2013. Responses are required by 23 March 2012. It is noted that FSA now intends to undertake a preliminary firm categorisation exercise to get more information about the likely population of UK AIFMs coming within the scope of the Directive, similar to the exercise undertaken in preparation for MiFID in 2005. FSA expects to publish its proposed policy positions and rules in a CP later in 2012. (23/01/12) <http://www.fsa.gov.uk/static/FsaWeb/Shared/Documents/pubs/discussion/dp12-01.pdf> (NB: over 100 pages long)

EVCA: Handbook

A new version has now been published for consultation. It sets out the key elements of governance, transparency and accountability that are expected of the main Industry participants towards each other, other stakeholders and towards the wider community. It is noted that the final version will also include the International Private Equity and Venture Capital (IPEV) valuation guidelines (already integrated in this new version) as well as the new reporting guidelines. Responses are required by 12 March 2012. (23/01/12) <http://www.evca.eu/news/news.aspx?item=6808#anchor> http://www.evca.eu/uploadedFiles/Home/Toolbox/Industry_Standards/EVCA_Handbook_Januari_2012.pdf (NB: over 60 pages long)

IOSCO: Principles on suspensions of redemptions in collective investment schemes

The report outlines principles against which both the industry and regulators can assess the quality of regulation and industry practices concerning suspensions of redemptions and are based on the CIS responsible entities' basic duty to manage CIS liquidity on an on-going basis in order to avoid suspensions. (20/01/12) <http://www.iosco.org/library/pubdocs/pdf/IOSCOPD367.pdf>

HMT: Consultation on contractual schemes for collective investment

The Government announced its intention in Budget 2011 to introduce a new, regulated, tax-transparent fund vehicle primarily to facilitate the setting up of pooled master funds under UCITS IV. Legislation allowing for the authorisation of such contractual schemes is intended to come into force next summer and will be effected through amendments made to regulatory legislation and consequential changes to tax legislation via Finance Bill 2012 and subsequent regulations. The aim of this consultation is to gather views and evidence on the costs and benefits of the contractual scheme, likely take up by industry and the tax and legal arrangements needed for the new fund vehicle to be deployed effectively. Comments are invited on the proposals and draft regulations by 19 March 2012. It is noted that FSA will carry out a separate consultation on proposed rule changes to the Handbook in spring 2012. (10/01/12) http://www.hm-treasury.gov.uk/d/consult_contractual_schemes090112.pdf (NB: over 70 pages long)

The Open-Ended Investment Companies (Amendment) Regulations 2011/3049 (previously reported on when in draft)

These Regulations amend the Open-Ended Investment Companies Regulations 2001 in order to introduce a protected cell regime for OEICs. This regime will ensure the segregation of liabilities of different sub-funds held under the same OEIC umbrella company so that investors in one sub-fund will be not liable to creditors in the event of another sub-fund failing. The instrument provides a statutory basis for segregation and requires the introduction of contractual terms to this effect. (Date in force: 21/12/11) (21/12/11) http://www.legislation.gov.uk/uksi/2011/3049/pdfs/ukxi_20113049_en.pdf

FSA: Thematic overview: regulated covered bond regime

FSA has published this guidance consultation. It sets out the regulator's expectations on systems and controls; the role of the signatory of the annual confirmation of compliance; and the content of management Information, to help ensure that the relevant RCB issuers or owners are able to meet the standards and obligations under the RCB regime as set out in the RCB Regulations and the related provisions in the RCB Sourcebook. Responses are required by 27 January 2012. (16/12/11) http://www.fsa.gov.uk/pages/Library/Policy/guidance_consultations/2011/11_31.shtml
http://www.fsa.gov.uk/pubs/guidance/gc11_31.pdf

The Investment Trust (Approved Company) (Tax) Regulations 2011/2999

These Regulations contain provisions as to the approval of companies as investment trusts by HMRC for the purposes of s1158 of the Corporation Tax Act 2010. They also contain provisions as to the treatment of specified transactions entered into by investment trusts (s622A of that Act), so that such transactions will always be treated for the purposes of the Corporation Tax Acts as being entered into for the purposes of investment rather than in the course of a trade, and make consequential amendments to the Offshore Funds (Tax) Regulations 2009/3001 (Date in force: 1/1/12) (15/12/11) http://www.legislation.gov.uk/uksi/2011/2999/pdfs/ukxi_20112999_en.pdf

The Finance Act 2011, Section 49(6) (Appointed Day) Order 2011/ 2977 (C. 107)

Section 49(6) of the Finance Act 2011 provides that ss1158 (meaning of "investment trust") and 1159 (approval) of the Corporation Tax Act 2010 have effect in relation to accounting periods beginning on or after the appointed day. This Order appoints 1/1/2012 as the day in question. (14/12/11) http://www.legislation.gov.uk/uksi/2011/2977/pdfs/ukxi_20112977_en.pdf

The Investment Trusts (Dividends) (Optional Treatment as Interest Distributions) (Amendment) Regulations 2011/2951

New tax rules will be introduced for the approval of companies as 'investment trusts' for accounting periods commencing on or after 1 January 2012. This instrument makes two minor changes to the Investment Trusts (Dividends) (Optional Treatment as Interest Distributions) Regulations 2009/2034 that are required as a result of changes to the approval process. (Date in force: 1/01/12) (12/12/11) http://www.legislation.gov.uk/uksi/2011/2951/pdfs/ukxi_20112951_en.pdf

PS11/16: Regulated covered bonds: feedback on the review of the UK regulated covered bonds regulatory framework and final Sourcebook Instrument

FSA has published changes to its rules for UK regulated covered bonds following the recent publication of the Regulations. These introduce consistent standards of investor reporting; clarification of the role of "Asset Pool Monitor"; which codify the existing UK practice of independent, external scrutiny of an issuer's regulated covered bond programme and refine regulatory reporting: The PS also provides an update on other areas of policy which relate to covered bonds. The new rules come into force on 1 January 2013. (9/12/11) [FSA publishes the policy statement on the review of the covered bond regime](http://www.fsa.gov.uk/pubs/policy/ps11_16.pdf) http://www.fsa.gov.uk/pubs/policy/ps11_16.pdf (NB: over 90 pages long)

EC European Venture Capital Funds Regulation

The proposal sets out a new European Venture Capital Fund label which will create a uniform approach for the categories of investors which are eligible to commit capital to such a fund (eligible investors will be professional investors as defined in MiFID). The Regulation will provide all managers of qualifying venture capital funds with a European marketing passport allowing access to eligible investors across the EU. The proposal has passed to the European Parliament and the Council (Member States) for negotiation and adoption under the co-decision procedure. (8/12/11) [EUROPA - Press Releases - Commission proposal on venture capital for small- and medium-sized enterprises \(SMEs\) - Frequently Asked Questions](http://ec.europa.eu/rapid/pressReleasesAction.do?reference=MEMO/11/880&format=HTML&aged=0&language=EN&guiLanguage=en) <http://ec.europa.eu/rapid/pressReleasesAction.do?reference=MEMO/11/880&format=HTML&aged=0&language=EN&guiLanguage=en> http://ec.europa.eu/internal_market/investment/docs/venture_capital/111207-impact-assessment_en.pdf (Draft regulation - noted this is a provisional version – over 170 pages long)

IMA/ABI: Harmonising the IMA Managed sectors and the ABI Mixed Investment sectors

A group of IMA and ABI representatives have agreed a set of harmonised sector names and definitions. Both sets of sectors will now be called: Mixed Investment 0-35% Shares; Mixed Investment 20-60% Shares (formerly IMA Cautious Managed) Mixed Investment 40-85% Shares (formerly IMA Balanced Managed); Flexible Investment (formerly IMA Active Managed and ABI Mixed Investment 60-100% Shares). Changes to the names and definitions of the IMA and ABI sectors will apply from 1 January 2012 and firms will have until the end of April 2012 to make the necessary changes to their funds. IMA and ABI will review the Mixed Investment sectors on an annual basis. However, they have agreed not to make changes to the sector definitions for a minimum of two years, unless circumstances arise which would make this necessary. (1/12/11) <http://www.abi.org.uk/Publications/59887.pdf>

HMT: Review of the UK's regulatory framework for covered bonds:

HMT has published a summary of consultation responses and notes that, subject to a small number of changes in response to the consultation, the Government intends to proceed with the proposals consulted on in the April 2011 document (see SI noted below). It is also noted that FSA will summarise in a separate PS the responses received to the consultation questions concerning amendments made to the RCB Sourcebook. (30/11/11) http://cdn.hm-treasury.gov.uk/condoc_covered_bonds_summary_responses.pdf

The Regulated Covered Bonds (Amendment) Regulations 2011/2859

These Regulations amend the Regulated Covered Bonds Regulations 2008 (SI 2008/346). These provide a legislative regime for covered bonds in the UK, implementing Article 52(4) of Council Directive 2009/65/EC of 13 July 2009 (previously Article 22(4) of Council Directive 85/611/EC of 20 December 1985) on the coordination of laws, regulations and administrative provisions relating to undertakings for UCITS. Among the changes: Regulation 2(3) provides for a new definition of "eligible property" to apply in relation to single asset class regulated covered bonds; Regulation 2(4) amends regulation 7, to provide for the register of regulated covered bonds to be kept in two parts; Regulation 2(9) amends regulation 17 to impose additional requirements in relation to the asset pool maintained to secure the obligations of the issuer under the regulated covered bond' Regulation 2(10) inserts regulation 17A which requires the issuer to appoint an asset pool monitor to inspect the issuer's compliance with the requirements set out in the principal Regulations (the asset pool monitor will prepare a report, which must be delivered to FSA - statements provided to the asset pool monitor under this power may not be used in criminal proceedings against the person giving the statement, except in proceedings for misleading FSA under s398 FSMA) and Regulation 2(11) amends regulation 18 to give FSA power to direct issuers to publish information given to it. (Date in force: 1/01/13) (30/11/11) http://www.legislation.gov.uk/ukxi/2011/2859/pdfs/ukxi_20112859_en.pdf

HMT: Autumn Statement

The Government intends to amend the regulations for UK covered bonds to provide greater transparency for investors and help banks use covered bonds to raise funding. (29/11/11) http://cdn.hm-treasury.gov.uk/autumn_statement.pdf (NB: over 90 pages long)

ESMA: Speech by Steven Maijor (EFAMA Investment Management Forum, 29 November 2011)

Topics include MiFID II; AIFM Directive; UCITS; ETFs; PRIPs. (29/11/11)
http://www.esma.europa.eu/data/document/2011_404.pdf

The Open-Ended Investment Companies (Amendment) Regulations 2011 (Draft)

These Regulations amend the Open-Ended Investment Companies Regulations 2001 in order to introduce a protected cell regime for OEICs. This regime will ensure the segregation of liabilities of different sub-funds held under the same OEIC umbrella company so that investors in one sub-fund will be not liable to creditors in the event of another sub-fund failing. The instrument provides a statutory basis for segregation and requires the introduction of contractual terms to this effect. (24/11/11) http://www.legislation.gov.uk/ukdsi/2011/9780111517239/pdfs/ukdsi_9780111517239_en.pdf

FMLC: Issue 86 -"Operating" a collective investment scheme

FMLC has raised issues with regard to the draft Financial Services Bill in a letter to HMT, which sets out issues of legal uncertainty that have been identified with regard to the definition of CIS. (23/11/11)
<http://www.fmlc.org/papers/Ltr2HMTre86Nov11.pdf> (NB: over 30 pages long)

FMLC: Issue 145 – AIFM Directive

FMLC has published a letter to ESMA concerning areas of legal uncertainty identified in ESMA's draft technical advice to the EC on possible implementing measures of the AIFM Directive. (23/11/11) <http://www.fmlc.org/papers/Ltr2ESMAre145.pdf>

TUC: Fund manager voting survey 2011

TUC's annual survey of the voting and engagement records and processes of institutional investors found that remuneration reports drew the greatest opposition from institutional investors, but bank remuneration reports were widely supported. It was also noted that there had been further progress in the disclosure of voting records, but the quality of information varied, with several fund managers only disclosing votes against and abstentions, and others only providing headline statistics. (17/11/11) <http://www.tuc.org.uk/tucfiles/137/FundManagerSurvey2011.pdf> (NB: over 80 pages long)

ESMA: ESMA's technical advice to the EC on possible implementing measures of AIFM Directive

ESMA publishes today its final advice (ESMA/2011/379) on the detailed rules underlying AIFM Directive. ESMA's advice follows a 2010 request by the EC, originally sent to CESR, asking ESMA to deliver its final advice by 16 November 2011. ESMA has also published the texts of letters to the EU institutions which accompanied the report. (16/11/11)
<http://www.esma.europa.eu/popup2.php?id=8060> http://www.esma.europa.eu/data/document/2011_379.pdf (NB: 500 pages long) <http://www.esma.europa.eu/popup2.php?id=8061> (EC) <http://www.esma.europa.eu/popup2.php?id=8063> (European Parliament) <http://www.esma.europa.eu/popup2.php?id=8062> (European Securities Committee)

The Investment Trust (Approved Company) (Tax) Regulations 2011 (Draft)

These Regulations make provision as to the approval of companies as investment trusts for the purposes of ss1158 and 1159 of the Corporation Tax Act 2010 (c. 4) and in relation to the requirements to be met by investment trusts whilst approved and the treatment of transactions entered into by investment trusts. They also make provision as to the treatment of investments by investment trusts in offshore funds and index tracker funds, and make consequential amendments to the Offshore Funds (Tax) Regulations 2009 (S.I. 2009/3001) ("the Offshore Funds Regulations").. (Expected date in force: 1/1/12) (11/11/11) http://www.legislation.gov.uk/ukdsi/2011/9780111516683/pdfs/ukdsi_9780111516683_en.pdf

IMA: Money market sectors

IMA has announced the creation of two money market sectors, based upon the ESMA “Short Term Money Market” and “Money Market” definitions that were introduced into the FSA Handbook in July 2011. The new IMA sectors will become effective as of 1 January 2012. IMA has adopted in principle the new FSA definitions of money market funds with effect from 1 July 2011. Firms were granted a six month transition period to bring their funds into compliance with the new rules and sector definitions. Ten funds will join the IMA Short Term Money Market Sector and six will join the IMA Money Market Sector. A number of firms have not yet confirmed which sector their fund will sit in. Whilst the usual IMA policy is to have a minimum number of ten funds in a sector, the IMA has decided to make an exception in this case to ensure consistency with the FSA Handbook. To monitor funds’ compliance with the sector definition, firms will provide quarterly certification to Morningstar, IMA’s monitoring company, that they have met the FSA rules. From 1 January 2012, firms will also supply monthly portfolio holding data for each fund to Morningstar. IMA will review the money market sectors in twelve months’ time. (9/11/11) <http://www.investmentfunds.org.uk/favicon.ico>

FSA: Speech by Sheila Nicoll: Update on EU Fund Management Regulatory Developments (1 November 2011)

Text of the above, given at the Terrapin Hedge 2011 conference event, follows. Topics include: AIFM Directive; leverage; treatment of funds and fund managers based in third countries; MiFID II proposals; the new UK regulatory environment. (3/11/11) [Update on EU Fund Management Regulatory Developments](#)

FSA: Thematic feedback on the FSA’s reviews of the Regulated Covered Bond programmes

Following tFSA’s annual review of Regulated Covered Bond programmes conducted in 2010, specific feedback was provided to a number of issuers on the scope and depth of engagement that the Compliance function has with the programme. In addition to this, in June 2011 the RCB team sought the views from all registered issuers on the nature of the interaction between Compliance and their regulated covered bond programmes. Taking into account the feedback received and our observations, this guidance takes the form of a draft letter to firms which sets out its expectations of the involvement the Compliance function should have with regulated programmes for the benefit of issuers. (31/10/11) http://www.fsa.gov.uk/pubs/guidance/fg11_20.pdf

ESMA: Opinion - practical arrangements for the late transposition of the UCITS IV Directive

ESMA notes that the deadline for the transposition of the UCITS IV Directive into national legislation was 1 July 2011, but most Member States have not yet fully transposed the Directive and its implementing measures. ESMA proposes some practical arrangements for cross-border operations involving one MS that has not transposed the Directive. (13/10/11) http://www.esma.europa.eu/data/document/2011_342.pdf

ESMA: Speech by Verena Ross: Keynote speech at AIMA conference (22 September 2011)

Topics include: aspects of the AIFM Directive (including third country issues; professional liability insurance, depositary duties and leverage); ESMA’s powers; OTC derivatives; EMIR; MiFID review; short selling. (28/09/11) http://www.esma.europa.eu/data/document/2011_320.pdf

ESMA: Consultation on draft technical advice to the EC on possible implementing measures of the AIFM Directive in relation to supervision and third countries

ESMA has published the responses received in respect of the above-mentioned consultation, which are available to download individually via the following link. (27/09/11) <http://www.esma.europa.eu/index.php?page=responses&id=188>

ESMA: Discussion paper on ESMA’s policy orientations on guidelines for UCITS ETFs and structured UCITS

ESMA has now published the responses to the above paper, which are available to download via the following link. (23/09/11) <http://www.esma.europa.eu/index.php?page=responses&id=187>

ESMA: Consultation on ESMA's draft technical advice to the European Commission on possible implementing measures of the AIFM Directive

ESMA has published the responses received with regard to the above, which can be downloaded individually via the following link. (14/09/11) <http://www.esma.europa.eu/index.php?page=responses&id=185>

The Authorised Investment Funds (Tax) (Amendment No. 2) Regulations 2011/1292

The purpose of the SI is to permit Authorised Investment Funds (AIFs) that have, as investors, other mutual funds, to take into account the investors in those funds in establishing compliance with the genuine diversity of ownership condition where this is relevant to the AIF and to prevent AIFs that have an investment strategy which requires tracking a market equity index from incurring a charge to tax on an offshore income gain in respect of the disposal of an interest in a non-reporting fund where this has been held as part of the index tracking strategy. (Date in force: 1/10/11) (6/09/11)
http://www.legislation.gov.uk/ukxi/2011/2192/pdfs/ukxi_20112192_en.pdf

PS11/10: Transposition of the revised UCITS Directive

The PS reports on the main issues arising from the joint HMT/FSA paper consultation document of December 2010 and publishes final rules as well as feedback, including where Handbook changes differ significantly from the version consulted on. The Handbook Instrument implementing FSA rules and guidance came into effect on 1 July 2011. Firms have until 30 June 2012 to introduce the key investor information document for their UCITS funds. (2/09/11)
http://www.fsa.gov.uk/pubs/policy/ps11_10.pdf (NB: over 290 pages long)

ESMA: Draft technical advice to the European Commission on possible implementing measures of the Alternative Investment Fund Managers Directive in relation to supervision and third countries

This consultation paper sets out ESMA's draft advice for possible implementing measures regarding the fourth part of the EC's request on supervision, as well as the measures on delegation to entities established in a third country and on general criteria for assessing equivalence of the effective prudential regulation and supervision of third countries in the context of depositaries. Responses are required by 23 September 2011. (23/08/11)
http://www.esma.europa.eu/data/document/2011_271.pdf (detailed press release)
<http://www.esma.europa.eu/popup2.php?id=7702> (consultation – NB: 30 pages long)

FSA: UK Covered Bond Forum

FSA has published webpages in respect of the above. FSA has established this Forum to replace the Covered Bond Standing Group (CBSG) and the first link includes information to download, including links to papers relating to its meeting on 23 June 2011. The second webpage comprises Q&As for industry and analysts. (17/08/11) [UK Covered Bond Forum Industry & analyst Q&As](#)

HFSB: Internationalising and strengthening the hedge fund standards

This consultation sets out a series of proposed amendments to its hedge fund standards which were originally developed in the context of the UK regulatory environment. Proposed amendments are aimed at: strengthening disclosure to investors; improving risk management; ensuring consistency in valuation; and ensuring policies are in place to prevent market abuse. Responses are required by 28 October 2011. (4/08/11) http://www.hfsb.org/sites/10188/files/consultation_document_cp3_-_04_august_2011.pdf

FSA/HMT: Update on the AIFM Directive (28 July 2011)

FSA has published the text of a slide presentation on the above, including an implementation timetable (which is subject to change). (3/08/11) http://www.fsa.gov.uk/pubs/other/aifm_directive_update.pdf

FSA: Derivative risk management practices across the investment management industry

FSA has published finalised guidance in respect of the above. In 2010, FSA had carried out a survey of twelve asset managers to consider their derivative risk management practices and had consulted on the findings and information about its expectations. FSA notes that questions in Appendix 1 can serve as a starting point for firms or supervisors to consider derivative risks. Appendix 2 draws together what it expects to see in place for each key theme. (3/08/11) http://www.fsa.gov.uk/pubs/guidance/fg11_10.pdf

IMA: Asset management in the UK 2010-2011

IMA has published its annual survey of the sector, based on questionnaire results from over 70 IMA member firms and interviews with 30 senior figures from 23 firms. The regulatory environment is discussed, with particular reference to RDR and MiFID. (1/08/11) <http://www.investmentuk.org/assets/files/research/20110705-IMA2010-2011AMS.pdf> (NB: over 100 pages long)

HMT/BoE/FSA: UK response to CBIC consultation on covered bond transparency

ICMA has published a response to the Covered Bond Investor Council's proposed transparency standards from the tripartite. (29/07/11) <http://www.icmagroup.org/ICMAGroup/files/48/48ec8352-2583-4352-ba26-e18fc70ee293.pdf>

FSA: Assessing the possible sources of systemic risk from hedge funds - a report on the findings of the hedge fund survey and hedge fund as counterparty survey

This paper sets out the results of FSA's latest hedge fund survey (conducted in March 2011) and hedge fund as counterparty survey (conducted in April 2011) – both surveys are carried out every six months. FSA reports that the latest results suggest that the leverage of surveyed hedge funds remains largely unchanged so current risks to financial stability through the market channel seem limited, but warns that risks may change rapidly according to market conditions. (27/07/11) http://www.fsa.gov.uk/pubs/other/hedge_fund_report_july2011.pdf

ESMA: ESMA's policy orientations on guidelines for UCITS exchange-traded funds and structured UCITS

ESMA has published this consultation. It is noted that, for UCITS ETFs, ESMA has identified the following topics for which guidelines should be developed: Identifier; Index-tracking issues; securities lending activities; actively-managed ETFs; leveraged ETFs; secondary market investors and quality and types of collateral received. For structured UCITS, ESMA is of the view that the role of swap counterparties in total return swaps should be subject to specific safeguards as well as the use of strategy indices. The document does not at this stage include any formal proposals for guidelines on UCITS ETFs and structured UCITS. Responses are required by 22 September 2011. (22/07/11) http://www.esma.europa.eu/data/document/2011_220.pdf (NB: 40 pages long)

Speech by Sheila Nicoll: The Alternative Investment Fund Managers Directive – ESMA's draft technical advice to the European Commission (21 July 2011)

Text of the above, given at PwC's Global Alternative Investments Seminar, follows. She discusses aspects of ESMA's technical advice, including depositories, leverage, transparency, risk management, scope, valuation, capital and third-country aspects. (21/07/11) [The Alternative Investment Fund Managers Directive](#)

ESMA: Draft technical advice to the European Commission on possible implementing measures of the Alternative Investment Fund Managers Directive

ESMA has published a consultation paper (ESMA/2011/209) setting out its proposals for the detailed rules underlying the Alternative Investment Fund Managers Directive. This is in response to the request for assistance which the EC sent to CESR in December 2010. It covers three broad areas: general provision for managers, authorisation and operating conditions; governance of AIFs' depositories and transparency requirements and leverage. Responses are required by 13 September 2011 and ESMA intends to finalise its advice to the EC by 16 November 2011. (13/07/11) <http://www.esma.europa.eu/popup2.php?id=7626> http://www.esma.europa.eu/data/document/2011_209.pdf (NB: over 400 pages long)

FSCP: Review of the UK's regulatory framework for covered bonds

FSCP has published its response to the HMT consultation. It supports many of the proposals, but notes concerns on single asset issues, largely around over-collateralisation requirements and the possible development of a two-tier market in terms of asset quality. (12/07/11) http://www.fs-cp.org.uk/publications/pdf/HMT_FSA_covered_bonds.pdf

HMT: Tax-advantaged venture capital schemes: a consultation

This consultation covers tax reliefs for investment in small, higher risk enterprises, including seed investment in start up enterprises. The aim is to gather views and evidence from stakeholders on a new scheme to support seed investment and on a number of reform options to improve the effectiveness of the existing Enterprise Investment Scheme and Venture Capital Trusts. Responses are required by 28 September 2011. (6/07/11) http://www.hm-treasury.gov.uk/d/consult_condoc_tax_advantage_venture_capital.pdf (NB: over 60 pages long)

FSA: Modification by consent of COBS and COLL

FSA has published a webpage, in the form of a Q&A, on the above. The modification allows authorised fund managers to produce and provide pre-sale consumer disclosure documents for retail funds in a consistent format. As a result of this modification, information about both UCITS schemes and non-UCITS retail schemes can take the form of a KIF document, giving authorised fund managers an alternative to the key features document or the simplified prospectus for NURS. This modification is valid until 30 June 2014 unless subsequently withdrawn. (6/07/11) http://www.fsa.gov.uk/pages/Doing/Regulated/Notify/Waiver/Consent/cobs_coll.shtml

EC: Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010

This has now been published in the Official Journal. (4/07/11) <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:174:0001:0073:EN:PDF> (NB: over 70 pages long)

The Undertakings for Collective Investment in Transferable Securities Regulations 2011/1613 (previously reported on when in draft)

The purpose of the instrument is to amend FSMA, the Open Ended-Investment Companies Regulations 2010, and related secondary legislation on financial services to implement in part Directive 2009/65/EC of the European Parliament and of the Council on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities ("UCITS") (the 2009 Directive). (Date in force: 1/07/11) (4/07/11) http://www.legislation.gov.uk/ukksi/2011/1613/pdfs/ukxi_20111613_en.pdf (NB: 30 pages long)

HMRC: High-risk areas of the tax code: The taxation of unauthorised unit trusts

This consultation seeks to identify changes that would reduce the opportunity for avoidance as well as reduce burdens on industry and investors. It is noted that modernisation of the rules for unauthorised unit trusts would also complement other reforms to the tax code over recent years for other forms of collective investment schemes, such as authorised investment funds and investment trusts. Responses to the proposals are required by 30 September 2011, with an interim progress report to be published in the 2012 Budget. (30/06/11) http://customs.hmrc.gov.uk/channelsPortalWebApp/downloadFile?contentID=HMCE_PROD1_031408

FSA: UCITS IV Directive Instrument 2011 – near final draft of FSA Handbook rules and guidance

Proposals in this document were originally consulted on in the joint HMT/FSA consultation in December 2010 and in CP11/07 (Chapter 9). FSA intends to invite its board to make the final version of these rules and guidance once FSA has been granted the necessary statutory powers under the proposed Undertakings for Collective Investment in Transferable Securities Regulations 2011, which were laid in Parliament on 13 June 2011. It does not expect the final version to differ in any significant way from the version published here. Once the rules have been made, FSA will publish a PS, which will include the final version of the Instrument. (20/06/11) http://www.fsa.gov.uk/pubs/handbook/hb_ucits_nearfinal_rules.pdf (NB: over 200 pages long)

EC: Consultation on a new European regime for venture capital

EC has published this consultation which outlines what could be the broad contours of a European passport that would be made available to venture capital funds. Comments on the proposals should be received by 10 August 2011. (15/06/11) http://ec.europa.eu/internal_market/consultations/docs/2011/venture_capital/consultation_paper_en.pdf

The Undertakings for Collective Investment in Transferable Securities Regulations 2011 (Draft)

The purpose of the Regulations is to amend FSMA, the Open Ended-Investment Companies Regulations 2010, and related secondary legislation on financial services to implement in part Directive 2009/65/EC of the European Parliament and of the Council on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities ("UCITS") (the 2009 Directive). (14/06/11) http://www.legislation.gov.uk/ukdsi/2011/9780111512265/pdfs/ukdsi_9780111512265_en.pdf (NB: 30 pages long)

AIMA: Guide to institutional investors' views and preferences regarding hedge fund operational Infrastructures

This paper outlines institutional investor views regarding a number of areas of operational and organisational "infrastructure", including governance, risk, capital and operations. (2/06/11) <http://www.aima.org/download.cfm/docid/CF822EF3-CB7A-4B13-81A7949E4C97C0AA> (NB: over 40 pages long)

EVCA: Handbook

This handbook, which has been published as a consultation, compiled by integrating several existing EVCA professional standard documents sets out the key elements of governance, transparency and accountability that are expected of the main Industry participants towards each other, other stakeholders and towards the wider community. It is intended to provide clear guidance on the principles that should govern the professional relationships between the manager, the investor, the portfolio company, and to all those engaged in the industry. A code of conduct appears in section 1 of this document. Responses are required by 1 September 2011. (2/06/11) <http://www.evca.eu/WorkArea/downloadasset.aspx?id=6412> (NB: over 40 pages long)

EC: AIFM Directive

The Council has adopted the AIFM Directive following an agreement reached with the European Parliament at first reading. The Directive will enter into force on the 20th day following its publication in the Official Journal; member states will have two years to transpose its provisions into national law. (27/05/11) http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/ecofin/122250.pdf <http://register.consilium.europa.eu/pdf/en/10/pe00/pe00060.en10.pdf> (NB: over 200 pages long)

HMRC: The Investment Trusts (Approved Company) (Tax) Regulations 2011

HMRC has published these draft regulations for comment, which must be received by 24 June 2011. The following link gives background information as well as a copy of the draft Regulations. (24/05/11) <http://www.hmrc.gov.uk/drafts/investment-trusts-tn.htm>

EFAMA: The evolving investment strategies of UCITS

The report considers "the so-called 'Newcits' phenomenon" and argues that the term " was coined by the media and should not be adopted by the industry or regulators. We do not believe that it is necessary or beneficial to have a specific label for these funds". (17/05/11) http://www.efama.org/index.php?option=com_docman&task=doc_download&qid=1395

The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011/1265

This Order makes amendments to primary and secondary legislation which are consequential on certain provisions of the Companies Act 2006 (c.46) having been brought into force, including the replacement of references to various provisions of the Companies Act 1985 (c.6) with references to the appropriate, superseding provisions of the Companies Act 2006 and the removal of references to the repealed Companies (Northern Ireland) Order 1986 (S.I. 1986/1032 (N.I.6)). Articles 4 and 5 of this Order have the effect of ensuring that there are valid savings provisions in place in respect of the Companies Consolidation (Consequential Provisions) Act 1985 (c.9). Schedule 2 to this Order makes consequential amendments to the Open-Ended Investment Companies Regulations 2001 (S.I. 2001/1228) to ensure that the regime for open-ended investment companies is consistent with the Companies Act 2006. The Companies Act 2006 (Commencement No. 8, Transitional Provisions and Savings) Order 2008 (S.I. 2008/2860) repealed the Open-Ended Investment Companies Act (Northern Ireland) 2002 (c.13 (N.I.)). Schedule 3 to this Order contains transitional provisions in relation to open-ended investment companies which were incorporated under the Open-Ended Investment Companies (Northern Ireland) Regulations 2004 (S.R. (NI) 2004 No 335). (Date in force: 12/05/11) (13/05/11)

http://www.legislation.gov.uk/ukxi/2011/1265/pdfs/ukxi_20111265_en.pdf

EFAMA: Report on responsible investment

This position paper aims to describe recent developments in responsible investment, establish EFAMA's position in relation to it and suggest some actions going forward. In its appendices this paper provides an overview over responsible investment selection information regarding the historical development of responsible investment and a description of the legal frameworks and various private sector initiatives in relation to the matter in selected European countries. (9/05/11)

http://www.efama.org/index.php?option=com_docman&task=doc_download&qid=1388&Itemid=99

EFAMA: Code for external governance - principles for the exercise of ownership rights in investee companies

The purpose of the code is to provide a framework of high-level principles and best practice recommendations which should act as a catalyst for engagement between investment management companies and the companies in which they invest.

(9/05/11) http://www.efama.org/index.php?option=com_docman&task=doc_download&qid=1387&Itemid=99

The Offshore Funds (Tax) (Amendment) Regulations 2011/1211

These Regulations amend the Offshore Funds (Tax) Regulations 2009 ("the principal Regulations") which make provision for the tax treatment of participants in offshore funds in order to address practical and operational issues identified by industry and by HMRC in aspects of the principal Regulations. The instrument also makes changes to the principal Regulations to make them simpler to operate in certain cases and fairer by treating investors in offshore funds in a more closely comparable manner to investors in UK investment funds. (Date in force: 27/05/11) (6/05/11)

<http://www.legislation.gov.uk/ukxi/2011/1211/made/data.pdf>

ESMA: Discussion paper on ESMA's policy orientations on possible implementing measures under Article 3 of the Alternative Investment Fund Managers Directive

ESMA has published a discussion paper setting out its proposed approach, including alternative options where relevant, for developing the Article 3 measures. It is noted that the document does not include any formal proposals for advice on possible implementing measure, but asks for views on: how to identify the portfolios of AIFs under management by a particular fund manager and the calculation of the total value of assets under management; how leverage influences the assets under management; how to determine the value of the assets under management by an AIF for a given calendar year; how to treat potential cases of cross-holding among the AIFs managed by a fund manager; how to treat AIFMs whose total assets under management occasionally exceed and/or fall below the relevant threshold; what the registration requirements for entities falling below the threshold should be; how the obligation to register with national competent authorities should be implemented and establishing what the suitable mechanisms for gathering information might look like; and what the procedures should be for small managers to opt-in to the AIFM Directive. Responses are required by 16 May 2011. Based on the responses to this discussion paper, ESMA will develop a formal proposal for possible implementing measures-in the summer of 2011. (15/04/11) <http://www.esma.europa.eu/popup2.php?id=7547> (NB: over 30 pages long)

ESMA: Guidelines to competent authorities and UCITS management companies on risk measurement and the calculation of global exposure for certain types of structured UCITS

ESMA has published its final report on the above which contains the policy approach agreed by ESMA, the cost-benefit analysis, the feedback from an earlier public consultation and the draft guidelines to be addressed to competent authorities and UCITS management companies. The guidelines will take effect when the translation process is completed and will

accompany the Level 2 implementing measures of the UCITS Directive that come into force on 1 July 2011. (14/04/11) <http://www.esma.europa.eu/popup2.php?id=7542> (NB: 30 pages long)

HMT: REITS measures – issues for discussion

Further to the Budget, HMT has launched an informal consultation on REITS measures and is seeking views from interested stakeholders. Responses are required by 10 June 2011. (11/04/11) http://www.hm-treasury.gov.uk/d/consult_informal_reits.doc

HMT/FSA: Review of the UK's regulatory framework for covered bonds

HMT and FSA have published a joint consultation which proposes a number of measures to build on the UK's existing covered bond regime. It is intended to ensure that UK covered bonds are readily comparable to those from other countries and can compete on level playing field. It also provides an update on the UK's engagement with its international partners on other areas of policy which relate to covered bonds. A key issue of current discussion is the scope of proposed "bail-in" powers, which would allow the authorities to impose losses on the creditors of a failing financial institution. The UK believes that in the exercise of any bail-in powers, secured creditors' rights to collateral should not be over-riden, and that the claims of covered bond holders in relation to the supporting asset pool should not be affected. The document proposes the following changes:

- Introducing consistent standards of investor reporting: this will increase transparency for investors and highlight the quality of underlying assets, while the use of common standards will make it easier for investors to compare different programmes.
- Requiring issuers to maintain a fixed minimum level of over-collateralisation: a fixed floor will give clarity to investors and aid comparison between the UK's regulated covered bond programmes and other regimes.
- Designating a regulated covered bond programme as backed by only a single asset type in the legislation: all UK issuers currently only use residential mortgages in their programmes, but the range of eligible assets in the regulations is much broader.
- Excluding securitisations as eligible assets for regulated covered bond asset pools: no issuers currently include securitisations as collateral in their regulated covered bond programmes.
- Creating a formal role of "asset pool monitor" in the legislation: this codifies the existing UK practice of independent, external scrutiny of an issuer's regulated covered bond programme and will provide added reassurance about the high standards of UK regulated covered bonds.
- Changes to regulatory reporting: updating and consolidating the regulatory reporting that the FSA requires when issuers apply to register with the FSA and on an ongoing basis. This information is used to assess issuers' applications and as part of the regular stress-testing FSA conducts on regulated covered bond programmes.

Responses are required by 1 July 2011. (6/04/11) <http://www.fsa.gov.uk/pages/Library/Communication/PR/2011/035.shtml> http://www.hm-treasury.gov.uk/d/consult_review_uk_reg_framework_covered_bond.PDF (NB: over 80 pages long) http://www.hm-treasury.gov.uk/d/consult_annexe_summary_fields_fsa_notification_forms.pdf

HMT/HMRC: The Budget (23 March 2011)

HMT has published a Budget Statement and an accompanying "Plan for Growth". HMRC has also published comprehensive details of tax measures. Items affecting financial services include the following:

Funds/investment trusts

The Government will introduce legislation to enable UCITS funds to be managed from the UK without adverse tax consequences. Regulations will also be introduced to amend the Genuine Diversity of Ownership conditions for Master/Feeder structures. (Finance Bill 2011) The Government is consulting on amendments to certain elements of the offshore funds regime. The Government will legislate to enable the implementation of a modernised regime for investment trust companies. The Government will legislate to widen the current definition of when an investment in an underlying collective investment scheme is classed as an 'exempt investment' under the SDRT Schedule 19 rules. The Government has announced an intention to make REITs easier to set up and more accessible to investors, including removing the REITs. (23/03/11)

http://cdn.hm-treasury.gov.uk/2011budget_complete.pdf (main Budget document) (NB: over 100 pages long) http://cdn.hm-treasury.gov.uk/2011budget_growth.pdf (Plan for growth) (NB: over 100 pages long) http://cdn.hm-treasury.gov.uk/2011budget_taxavoidance.pdf (Tackling tax avoidance) <http://www.hmrc.gov.uk/budget2011/overview.pdf> (HMRC – tax changes) (NB: over 200 pages long) http://www.hm-treasury.gov.uk/2011budget_taxation.htm (details of tax changes taking place from 23 and 24 March 2011 are to be found here) <http://www.hmrc.gov.uk/budget2011/tiin6815.pdf> (HMRC tax information and impact note re UCITS Management Passport) <http://www.hmrc.gov.uk/budget2011/tiin6765.pdf> (HMRC tax information and impact note re Specified Investments) <http://www.hmrc.gov.uk/budget2011/tiin6370.pdf> (HMRC tax information and impact note re CFC rules) <http://www.hmrc.gov.uk/budget2011/tiin6420.pdf> (HMRC tax information and impact note re taxation of foreign branches) <http://www.hmrc.gov.uk/budget2011/tiin6995.pdf> (HMRC tax information and impact note re Disregard Regulations)

Speech by Sheila Nicoll: The AIFM Directive – the road ahead (17 March 2011)

Text of the following, given at the AIMA Policy and Regulatory Forum, Brussels, follows. Topics include: AIFM Directive timetable; industry input; key issues for task forces; policy issues; third country issues. (22/03/11)
http://www.fsa.gov.uk/pages/Library/Communication/Speeches/2011/0317_sn.shtml

IOSCO: Principles on suspensions of redemptions in collective investment schemes

This consultation paper analyses how different jurisdictions' regulatory regimes address the suspension of redemptions by open-ended collective investment schemes and proposes principles which provide general standards for how regulatory regimes should approach and oversee suspension of redemption. Responses are required by 30 May 2011. (8/03/11)
<http://www.iosco.org/library/pubdocs/pdf/IOSCOPD349.pdf>

EC: Provisional request for a technical advice on the Directive for Alternative Investment Fund Managers (AIFM) level 2 measures: extension of deadline

The EC has published the text of a short letter to the acting chairman of ESMA which notes that "we have learned from the lawyer linguists of Council and European Parliament that the AIFM Directive will most likely not enter into force before June 2011". The deadline for ESMA's advice has been extended to November 2011. (7/03/11)
http://ec.europa.eu/internal_market/investment/docs/alternative_investments/level2/note_en.pdf

FSA: Assessing the possible sources of systemic risk from hedge funds - a report on the findings of the hedge fund survey and hedge fund as counterparty survey

This paper sets out the results of FSA's latest hedge fund survey conducted in September 2010 and the hedge fund as counterparty survey conducted in October 2010. FSA notes that the results suggest that the footprint of surveyed hedge funds remains small within most markets and leverage is largely unchanged, so that risks to financial stability through the market channel seem limited at the time of the latest surveys, but adds that some risks to hedge funds remain, particularly if they are unable to manage a sudden withdrawal of liabilities during a crisis period. FSA intends to repeat this survey work in March 2011. (28/02/11) http://www.fsa.gov.uk/pubs/other/hf_survey.pdf

HMRC: The Offshore Funds (Tax) Regulations 2009 (SI 2009/3001 as amended).

HMRC has published, for industry comment, a full draft of proposed amendments to the above, which include rules for funds operating equalisation published in December 2010 and a number of other changes, which are described in the first link below. (28/02/11) <http://www.hmrc.gov.uk/drafts/draft-equalisation.htm> <http://www.hmrc.gov.uk/si/draft-si-offshore-funds-tax.pdf>

EC: Feedback on public consultation on the UCITS V

EC has published a short synopsis of feedback from its consultation to review the current framework applicable to the UCITS depositaries and to introduce provisions on remuneration for UCITS managers. (18/02/11)
http://ec.europa.eu/internal_market/consultations/docs/2010/ucits/summary_of_responses_en.pdf

The Authorised Investment Funds (Tax) (Amendment) Regulations 2011/244

These Regulations amend the Authorised Investment Funds (Tax) Regulations 2006 (S.I. 2006/964) ("the principal Regulations"). New regulation 14ZA specifies the conditions that an authorised investment fund must satisfy in relation to an asset that represents an interest in an offshore non-reporting fund ("the asset") if the disposal of the asset is not to give rise to a charge to tax on the authorised investment fund. Where the conditions are satisfied, new regulation 14ZB applies. New regulation 14ZB provides that the disposal of an asset will not be subject to a charge to tax under the Offshore Funds (Tax) Regulations 2009 (S.I. 2009/3001) ("the Offshore Funds Regulations"), which would otherwise be the case. New regulation 14ZC deals with the case where an authorised investment fund holds an asset in relation to which the conditions in regulation 14ZA(2) are not satisfied for the entire period that it holds the asset. Regulation 14ZC provides that the authorised investment fund may treat the asset as an interest in a reporting fund if it makes a deemed disposal and re-acquisition of the asset representing the interest. In order to do so, the authorised investment fund must reasonably expect to satisfy the conditions in regulation 14ZA(2) from the date of the reacquisition until the date on which it disposes of the asset. If it satisfies the conditions in new regulation 14ZA(2) for this period, new regulation 14ZB applies on the disposal of the asset.

Regulation 5 amends regulation 85D of the principal Regulations so that the investment condition is met if an authorised investment fund invests more than 50% of its gross asset value in non-reporting funds or FINROFs (funds investing in non-reporting offshore funds). (Date in force: 6/03/11) (9/02/11) <http://www.legislation.gov.uk/ukxi/2011/244/made/data.pdf>

AIC: Custody risk for investment company boards

This paper considers the risks associated with third party custody of an investment company's assets. One of the appendices gives a synopsis of the rules for depositary arrangements set out in the AIFM Directive. (4/02/11) <http://www.theaic.co.uk/Documents/Technical/AICCustodyriskFeb2011.pdf>

ESMA: Call for evidence on Implementing measures on the AIFM Directive

ESMA has now published the responses to the above, which are available to download individually via the following link. (18/01/11) [ESMA \[European Securities and Markets Authority\]](#)

ESMA: Consultation on CESR's guidelines on risk measurement and the calculation of global exposure for certain types of structured UCITS

Responses to the consultation are available to download individually via the following link. (13/01/11) [ESMA \[European Securities and Markets Authority\]](#)

Archived material on the sector is available via the following links: [January-June 2009](#), [July-December 2009](#), [January-December 2010](#) and [January-July 2011](#).

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