



*European Association of Co-operative Banks  
Groupement Européen des Banques Coopératives  
Europäische Vereinigung der Genossenschaftsbanken*



## **EACB position on ESMA's discussion paper on policy orientations on guidelines for UCITS Exchange-Traded Funds and Structured UCITS**

Ref.: ESMA/2011/220

22 September 2011

The **European Association of Co-operative Banks** (EACB) is the voice of the co-operative banks in Europe. It represents, promotes and defends the common interests of its 28 member institutions and of co-operative banks in general. Co-operative banks form decentralised networks which are subject to banking as well as co-operative legislation. Democracy, transparency and proximity are the three key characteristics of the co-operative banks' business model. With 4.200 locally operating banks and 63.000 outlets co-operative banks are widely represented throughout the enlarged European Union, playing a major role in the financial and economic system. They have a long tradition in serving 160 million customers, mainly consumers, retailers and communities. The co-operative banks in Europe represent 50 million members and 750.000 employees and have a total average market share of about 20%.

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## General Remarks

The members of the European Association of Cooperative Banks (EACB) are pleased to briefly comment on ESMA's *discussion paper on policy orientations on guidelines for UCITS Exchange-Traded Funds and Structured UCITS* of July 2011 (Ref.: ESMA/2011/220).

The EACB would like to highlight its clear support for increased transparency in the marketing and selling of synthetic ETFs and structured ETFs. This rings especially true in light of the recent scandal unfolding within one of Europe's largest banks – in its role as total return swap provider for a synthetic ETF fund.

We have always been of the opinion that all essential information has to be disclosed to the client – including all possible risks – prior to his investment decision as is stipulated in Directive 2004/39/EC, Article 19(3). This certainly includes additional risks arising out of synthetic ETF structures which shift portions of the actual underlying market risk towards the total swap provider. In case of a default clients are faced with additional counterparty risk and risk of the provided collateral significantly differing from the actually endorsed ETF underlying.

We therefore agree with ESMA's intentions on heightening transparency and support the use of identifiers with UCTIS ETFs in their names, fund rules, prospectus and marketing material (Q8). Once all transparency requirements are fulfilled, we believe that funds should be allowed to act freely within the boundaries of the UCITS regulation and its prospectus. We have confidence that this creates a diversified environment that fosters products suitable for each type of investor, therefore ultimately adding liquidity to the market.



## Contact

The EACB trusts that its comments will be taken into consideration. Should there be any need for further information any questions on this paper, please contact:

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