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Bundesverband Investment
und Asset Management e.V.

INVESTMENT-INFORMATION

BVI proposes liquidity management plan for open-ended property funds

Focus on private investor protection

Frankfurt/Main, 10th February 2009. The real estate investment companies affiliated to the German Investment and Asset Management Association (BVI Bundesverband Investment und Asset Management e.V.) have agreed on a solution package to improve the liquidity management of open-ended property funds. At the Association's annual press conference held today, BVI President Dr. Wolfgang Mansfeld said that consequently open-ended property funds will still remain first choice for long-term oriented investors wishing to benefit from the positive growth prospects of real estate markets.

Open-ended property funds have so far weathered the financial crisis and remained a stable asset class in terms of value. In 2008, investors were awarded average returns of 4.7 percent. The market turbulence at the end of October, however, led to a wave of redemptions within the space of a few days, especially by larger investors and asset managers. This mass reflux forced eleven open-ended property funds to temporarily suspend any further redemption of fund units in order to protect the remaining investors. In December, the fund group recorded a renewed net cash inflow of Euro 861 million, Euro 337 million of which was attributable to those open-ended property funds that had suspended redemption since the end of October.

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“In order to secure investor confidence in this fund class, we have to reinforce the liquidity management of these funds,” the BVI President commented. The investment sector has therefore proposed a three-pillar solution package that could be promptly incorporated in the German Investment Act (Investmentgesetz – “InvG”). The first proposal is a statutory notice period of 12 months for new investments by institutional investors in public mutual funds (Publikumsfonds), which are open to both private and institutional investors. The second is a provision allowing German investment companies (Kapitalanlage-gesellschaften – “KAGs”) to stipulate a 90-day notice period for any further redemption if five percent of a fund’s assets are redeemed within the space of 30 days. The third proposal relates to an option allowing KAGs to lay down stricter notice periods.

In order to meet the needs of investors with payout plans, the legislature should permit the continuation of such plans up to an amount of Euro 3,000/month per plan even if redemptions are temporarily suspended. The investment sector has appealed to the legislature to enshrine this solution package in the country’s Investment Act as quickly as possible.

“I am convinced that this solution package will provide effective protection against erratic redemptions. In future, we will be able to significantly reduce the probability of redemption suspensions and also protect typical private investors without marginalising institutional clients,” explains Mansfeld. From a European perspective, he also sees this is a decisive step since German open-ended property funds are the market leaders in Europe.

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Extension of the legal framework for open-ended property funds

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1. Statutory notice period of 12 months for investments by institutional investors in public mutual funds

- Only applies to newly acquired fund units by non-individuals (businesses and legal persons) after the amendment takes effect (no retroactive effect);
- Applies independently of the value of the redeemed fund units for all public mutual funds in which individuals (natural persons) and non-individuals can invest without limitations;
- Does not apply to public mutual funds that are only open to non-individuals and professional investors as defined in Art. 31a WpHG (German Securities Trading Act – *Wertpapierhandelsgesetz*) (“Business Funds”);
- Custodians must pass on necessary information to German investment companies (“KAGs”) so that they can determine whether an investor has “non-individual” status;
- KAGs can also introduce separate fund unit classes for individuals and non-individuals.

2. Option of introducing temporary 90-day notice period

- Must be included in the contractual terms and conditions for all investors in all real-estate mutual funds;
- Applies to both old and new fund units independently of the value of the redeemed fund units;
- Notice period is optional and not obligatory: KAGs can make a discretionary decision if more than 5 percent of a fund’s assets are redeemed within the space of 30 days;
- KAGs can make a discretionary decision to revoke the temporary notice period at any time;
- Inception and revocation of the notice period must be publicised.

3. Further provisions possible in contractual terms and conditions or individual agreements with investors

- Points 1 and 2 are statutory minimum standards.
- In addition, KAGs can lay down stricter notice periods and/or exit charges in their contractual terms and conditions or agreements with individual investors, in particular:
 - up to 12 months also for private investors pursuant to Art 80c InvG;
 - 12 months or more for institutional investors;
 - for “professional investors” in funds reserved for them.

4. Continuation of payout plans

- KAGs may set forth in their contractual terms and conditions that they will continue payout plans even if a temporary notice period as defined in Point 2 is introduced or redemption is suspended;
- Maximum of EUR 3,000/month per plan
- Only possible if the fund can be properly administered at the same time
- If the KAG does not maintain the custody account itself, the custodian must provide evidence of the existing payout plan.