

REPLY TO CESR'S CONSULTATION PAPER ON NON-EQUITY TRANSPARENCY

The European investment management industry, represented by EFAMA¹, is pleased to comment on CESR's Consultation Paper on Non-Equity Transparency.

EFAMA has already replied to the Commission's Call for Evidence in June 2006 and to CESR's Call for Evidence in March 2007 and refers you to our prior statements².

Q1: To what extent do you agree with CESR's assessment of market failure in the secondary bond markets?

EFAMA generally agrees with CESR's assessment, particularly with CESR's statement that "an increase in transparency will need to be carefully tailored to ensure that liquidity provision and levels of competition were not damaged" and that a "thorough cost-benefit analysis of any change would need to be undertaken".

Q2: To what extent do you agree with CESR's conclusions regarding the impact of imposing mandatory pre- or post-trade transparency requirements?

We agree with CESR that transparency could be increased to the benefit of retail investors, but only after carrying out a detailed cost-benefit analysis and as long as there is no detriment to overall liquidity. We reiterate our views that transparency should not be an abstract goal, but only the means to bring improvement for market participants, and that industry-led solutions are preferable to mandatory regulation.

Q3: To what extent do you think retail investor protection considerations would justify mandating pre- or post trade transparency?

Before mandating transparency measures for the benefit of retail investors, the extent of their involvement (specifically, of their direct involvement without intermediaries) in non-equity trading should be carefully studied and measured. Should action be deemed necessary to enhance retail investor protection, the market should be carefully segmented, and delayed publication should be considered as an alternative to real-time transparency.

¹ EFAMA is the representative association for the European investment management industry. Through its 23 national member associations and over 40 corporate members, EFAMA represents about EUR 15 trillion in assets under management, of which EUR 7.5 trillion managed by around 46,000 investment funds. For more information, please visit www.efama.org.

² See <http://www.efama.org/55PositionPapers/2006/position.2006-09-29.4028921508> and <http://www.efama.org/55PositionPapers/82007/nonequitiesmarkettransparency>

Q4: To what extent do you think that the introduction of the new best execution requirements will result in a change in the level of transparency information provided on a voluntary basis by the industry?

EFAMA believes that the introduction of best execution requirements under MiFID will result in a voluntary improvement of transparency levels, but it is too early to tell what the exact impact will be. We believe therefore that no decision should be taken to mandate transparency before MiFID is implemented, and that first of all an evaluation should take place of the implementation of equity transparency, as well as of the evolution of voluntary non-equity transparency after MiFID enters into effect.

Q5: How would you propose retail investor education be improved and delivered?

N/A

Q6: To what extent do you agree with the suggestion that the defaults that have affected retail investors in recent years have been the result of factors other than transparency? If you feel that transparency levels were of significance in these losses, please explain how.

In the case of large defaults affecting retail investors in the recent past (Parmalat, Argentina), we agree with CESR that they cannot be traced back to a lack of transparency in non-equity trading. Investor losses were rather due to corporate fraud or unsuitable advice.

Q7: To what extent do you agree with CESR's assessment that any transparency requirements could viability be segmented?

EFAMA agrees with CESR that a differentiation should be made between pre- and post-trading transparency, and that it might be possible to reach a suitable market segmentation. However, we believe that any such attempt should be “subject to careful design”, should closely involve industry participants, and that it should not lead to the imposition of further obligations on asset managers.

Q8: Do you agree that we have captured the most important criteria that the Commission should take into account in judging possible self-regulatory initiatives? If you think there are other factors that should be noted, please provide details.

EFAMA agrees that the most important criteria have been taken into account by CESR.

We remain at your disposal should you wish to discuss any particular aspect of our comments in greater detail.

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