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Mr Fabrice Demarigny
The Committee of European Securities Regulators
11-13 Avenue de Friedland
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France

Response to CESR's Consultation Paper on 'The list of Minimum Records in Article 51(3) of the MiFID Implementing Directive'

The Irish Association of Investment Managers ("IAIM") represents the Irish investment management industry. IAIM is pleased to have this opportunity to comment on the minimum records requirements proposed under MiFID.

We are in favour of all proposals which contribute to a consistent implementation of MiFID across the EU.

Our responses to the specific questions raised in the Consultation Paper are as follows;

1. Do you agree that a common list of minimum records in all CESR members will benefit investors and industry?

We agree that a common list of minimum records in all CESR members should be of benefit for investors and industry. However, this common list should relate solely and exclusively to matters covered under MiFID. Furthermore, the list of minimum records should be proportionate and relevant to the MiFID services offered by a firm and should not have the effect of obliging a firm to maintain records that are unnecessary having regard to the nature of the services offered. Finally, we suggest that the emphasis should properly be placed on the ability of a firm to maintain and produce the requisite data in order to comply with the provisions of the Directive. It would not be desirable that firms be required to maintain separate/dedicated listings of information to evidence compliance, where such information is readily available within the firm's records and systems already.

2. Do you agree with the content of the list elaborated by CESR? If not, which records should be added or deleted and for which reasons.

We agree with the content of the list elaborated by CESR subject to the following observations:

- (a) The records required to evidence compliance with Article 19(4) and 19(5) must have regard to the special context of portfolio management services provided to institutional clients. Generally the client will have separately retained the services of an actuarial/investment consultant to conduct appropriate studies (including asset/liability modelling etc) leading to the design of a mandate which the asset manager is obliged to follow. The matter of suitability will therefore be determined by the client and its advisors prior to the selection of a portfolio manager. Indeed a significant proportion of institutional investors retain a number of portfolio managers none of which, individually, may have access to information on the clients overall portfolio.
- (b) It should be clarified that requirements in relation to Investment Research apply to research issued to clients and not to research produced for internal use only.
- (c) The retention period of 5 years specified under Article 25(2) does not appear to include all items scheduled (periodic client statements, investment research etc). Clarification of the retention period for all records would be useful.

3. Do you consider that a specific requirement for keeping records of the provision of investment advice should be introduced?

IAIM agrees with this proposal which reflects existing national requirements in Ireland.

We would be happy to discuss any aspect of our comments in greater detail should this be required.

Yours sincerely,

Frank O'Dwyer
Chief Executive