

**EFAMA RESPONSE TO
CESR'S CONSULTATION PAPER
"CESR WORK PROGRAMME ON MiFID LEVEL 3 WORK (CESR/06-413)"**

The European investment management industry, represented by EFAMA¹, welcomes the opportunity to respond to CESR's consultation paper on its Work Programme on MiFID Level 3 Work.

In view of the vast number of issues that CESR has to address during MiFID implementation (many of them requested by Level 1 or Level 2 measures), the limited time available and the limited resources at CESR's disposal, we fully appreciate the need to prioritize.

EFAMA is, however, concerned by two aspects of the work programme:

- that even after 31 January the industry will not be able to rely with certainty on national interpretations, as they could be subsequently modified by agreements at CESR level, and
- that several areas of work of high importance for the industry according to CESR's Level 3 Work Programme are scheduled to be discussed by CESR potentially too late to make the necessary arrangements before 1 November.

In order to plan and execute properly the implementation of MiFID rules, the asset management industry needs certainty and stability of interpretation: regulation cannot be a constantly moving target. Since infrastructure investments require planning well in advance of the implementation deadline, and changes in business processes are very disruptive, it will be very difficult – if not impossible – to implement in time any CESR decisions taken after 31 January 2007, particularly those taken in the second half of 2007.

We therefore urge CESR to anticipate to 2006 or Q1 2007 at the latest the discussion of any priority issues that are absolutely "necessary for the entry into force of the new measures". In particular, precedence should be given to any issues that might require modifications to the IT infrastructure and those where a harmonized approach is essential from the very beginning (e.g. functioning of the passport, home/host relationship). The discussion of any implementation issues other than absolutely essential ones should therefore wait until 2008.

¹ EFAMA, previously FEFSI, is the representative association for the European investment management industry. Through its member associations from 19 EU Member States, Liechtenstein, Norway, Switzerland and Turkey, as well as its 40 corporate members, EFAMA represents at mid 2006 about EUR 14 trillion in assets under management, of which EUR 7 trillion through about 43,000 investment funds. For more information, please visit www.efama.org.

Furthermore, instead of setting already its work programme so far in advance, CESR should keep some flexibility and re-evaluate the situation in 2007 in view of national implementation, when the urgency of some issues will be more apparent.

We would like to point out an issue of great importance to the asset management industry which was not mentioned in the Consultation Paper, but which in EFAMA's opinion requires a harmonized interpretation by CESR:

Cross-border activities undertaken by a branch

EFAMA believes that, among the issues of highest priority relating to the home/host relationships, CESR should address the competence of the home vs. the host Member State authority for the supervision of cross-border activities undertaken by branches.

We are at your disposal should you have any questions regarding our comments.

Steffen Matthias, Secretary General
Graziella Marras, Senior Policy Advisor

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