



CJ/SJ/AP - N° 2320 Div

Mr Fabrice Demarigny
Secretary General
Committee of European Securities
Regulators (CESR)
11-13, Avenue de Friedland
75008 Paris

Paris, 21 November 2007

AFG RESPONSE TO CESR CONSULTATION ON THE DRAFT WORKPLAN FOR Q4/2007-2008

Dear Mr Demarigny,

The Association Française de la Gestion financière (AFG)¹ welcomes the CESR's consultation paper regarding CESR work programme on MiFID Level 3 work. We take the opportunity of the consultation to congratulate CESR for the work it has carried out in 2007 at Level 3 to enhance convergence among regulators in the interpretation and application of the MiFID provisions and stress that its role of harmonisation in this area remains crucial.

¹ The Association Française de la Gestion financière (AFG)¹ represents the France-based investment management industry, both for collective and discretionary individual portfolio managements.

Our members include 365 management companies and 772 investment companies. They are entrepreneurial or belong to French or foreign banking or insurance groups.

AFG members are managing more than 2500 billion euros in the field of investment management, making in particular the French industry *the leader in Europe in terms of financial management location* for collective investments (with nearly 1500 billion euros managed, i.e. 22% of all EU investment funds assets under management), wherever the funds are domiciled in the EU, *and second at worldwide level after the US*. In the field of collective investment, our industry includes – beside UCITS – the employee savings schemes and products such as regulated hedge funds/funds of hedge funds as well as a significant part of private equity funds. AFG is of course an active member of the European Fund and Asset Management Association (EFAMA) and of the European Federation for Retirement Provision (EFRP). AFG is also an active member of the International Investment Funds Association (IIFA).

Overall we believe that the paper is identifying the main issues and topics that need to be reviewed by CESR next year. However we are looking for some clarifications and wish to point out some topics that CESR should also consider.

1. Establishment of a CESR's MiFID Q&A:

Although we consider that a Q&A might be necessary to answer practical questions, we are wondering how this Q&A will match with the European Commission's own Q&A on MiFID and which status it will get. As you are aware the European Commission's Q&A does not have any legal or interpretative value and is therefore creating some confusion regarding the implementation of some provisions at national level.

We recognise that a Q&A to harmonise regulators' policies is necessary but we do not think that it should interpret any of the MiFID provisions. It should only be used to illustrate them. We ask CESR to carefully consider first the goal and the role of its future Q&A and coordinate it with the European Commission's own Q&A – and also the national interpretations already expressed by national regulators – before launching any further work in this matter.

In any case, the Q&A should not replace any work that should be done under “thematic work”.

2. Thematic work:

High priority issues:

We believe that the ‘other areas of work’ relating to intermediaries should be reclassified as high priority instead of medium. To our opinion, intermediaries should cover all the investment firms (including the asset management companies).

Possible areas for thematic work for intermediaries:

On **the soft commission and unbundling**, we ask CESR to first let the industry try to self-regulate this area (as it has already been the case in UK and France where a regime of Commission Sharing Agreements has been put in place).

On **best execution**, we believe that CESR should tackle the situations when portfolio management companies execute orders or how the criterion of research can be taken into account among the best execution criteria.

We call also on CESR to add an issue that needs close consideration, the **definition of investment advice** to be distinguished from mere advice. The latter one does not result into an investment decision but can be a part of an investment service (such as portfolio management). A clarification from CESR on the scope and definition of investment advice is necessary.

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We thank CESR very much for taking into consideration our comments and remain at your disposal for any further questions. Please feel free to contact myself, Alain Pithon, Deputy CEO, at 00 33 1 44 94 96 61 (e-mail: a.pithon@afg.asso.fr), our Head of International Affairs Stéphane Janin at 00 33 1 44 94 94 04 (e-mail: s.janin@afg.asso.fr) or his deputy Catherine Jasserand at 00 33 1 44 94 96 58 (e-mail: c.jasserand@afg.asso.fr).

Yours sincerely,

(signed)
Alain Pithon