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Mr. Carlo Comporti  
Secretary General  
The Committee of European Securities Regulators (CESR)

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The Committee of European Banking Supervisors (CEBS)

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### **3L3 MEDIUM TERM WORK PROGRAMME**

The IMA<sup>1</sup> would first of all like to thank you for the opportunity to comment on the 3L3 medium term work programme.

All the three financial sectors (securities, banking and insurance) have for three years operated under the conditions of the Lamfalussy process in the European regulatory framework. It is therefore crucial for the European financial services industry and the whole European economy that the Level 3 Committees function as efficiently and openly as possible, facilitating supervisory convergence to create a real European Single Market for financial services. Divergent practices and interpretations of national regulators cross borders and cross sectors will, as always, be an additional cost for cross-border businesses and not beneficial to consumers either.

Enhancing the cooperation between the Level 3 Committees is essential in the development towards a true Single Market. IMA therefore strongly supports the joint decision taken by the Committees to have a longer-term focused strategy allowing for market consultation, with a final outcome that clearly sets out agreed objectives.

Generally the draft priorities for 3L3 work seem well considered. Please find below our detailed comments on three key issues.

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<sup>1</sup> The IMA represents the UK-based investment management industry. Our members include independent fund managers, the investment arms of retail banks, life insurers and investment banks, and the managers of occupational pension schemes. They are responsible for the management of about £3 trillion of funds based in the UK, Europe and elsewhere, including authorized investment funds, institutional funds (e.g. pensions and life funds), private client accounts and a wide range of pooled investment vehicles.

## **Competing products**

In IMA's opinion the EU-legislation has created an un-level playing field for the competing savings products (i.e. investment funds / structured securities/ unit linked insurance products). Depending on the legal nature of the product they are subject to completely different disclosure regimes. The disclosure of investment funds is regulated by the UCITS Directive. The distribution of products such as structured notes and certificates is regulated under MiFID, but their product and cost disclosure is regulated by the Prospectus Directive and therefore does not reach the level of disclosure of UCITS. Other investment products such as unit-linked insurance products are not covered by the strict requirements of either the MiFID or the UCITS Directives, but are regulated by the Consolidated Life Insurance Directive and regarding distribution by the Insurance Mediation Directive, which only includes rather general rules regarding distribution and advice.

The market is distorted by heavier regulatory and fiscal burdens imposed on UCITS as opposed to other competing products. Whilst we believe it would be a retrograde step to scale back disclosure requirements relating to UCITS, we nevertheless feel that it is very important to ensure that disclosure requirements by products which compete with UCITS are similar to those applicable to UCITS.

Therefore the IMA warmly welcomes the commitment by the Level 3 Committees to play their part to reach a more level playing field for disclosure at the point of sale of different savings products. As any legislative change will take years to have effect, the Committees should in the short term aim for a more convergent approach at Level 3 and assist the Commission in preparing necessary amendments to the EU regulatory framework. For CESR a key task will be to assist the Commission in ensuring that MiFID rules are applied consistently across all products and services it covers and in every Member State.

We also strongly encourage the 3L3 Committees to publish their fact finding work in the area of substitute products mentioned on page 12 of the draft programme, to increase transparency of the current regulatory status of different products in practice.

## **Credit rating agencies (CRAs)**

We look forward to responding in detail to CESR's forthcoming consultation on the topic but would like to take this opportunity to state our general view. The roles and responsibilities of CRAs have been in discussion for many years. In February 2005, IMA submitted a response to CESR's consultation paper on technical advice to the European Commission on possible measures concerning CRAs. Then, as now, the importance of CRAs grows as corporate debt and complex instruments displace equities in most portfolios. Recently CRAs have been relied upon to describe or circumscribe asset allocation in clients' mandates or funds' definitions.

IMA remains of the view that more competition in the ratings process will encourage a higher level of analytical input and thereby improve the quality of ratings overall. IMA members have a considerable interest in transparent and robust practices at CRAs. IMA does not advocate regulation in this area. Forms of registration and regulation raise barriers to entry when arguably the role of the regulator should be to

encourage more competition. There are areas however which must remain under continuous consideration. IMA calls regulators and legislators to encourage market-led improvement in transparency, disclosure and conflict management at CRAs.

### **Increasing cooperation amongst the national supervisors (Home-host issues and delegation of tasks)**

The ability of home and host supervisors to cooperate efficiently and effectively with each other is indeed crucial in order to achieve the objective of an integrated financial market in Europe. Further to that, supervisors need to be able and also prepared to delegate tasks to each other and rely on the other supervisors' work as a basis of their own. Otherwise instead of an efficient internal market the end result will be multiple checks, requirements, regulatory interpretations and thereby also costs addressed to the activity of a financial services provider, eating away the efficiencies that could otherwise have been gained with operating under a European passport. Additionally there will be circumstances in which all will be better served by CESR itself carrying out certain tasks centrally; we have in mind initiatives such as the MiFID database of shares, which we have welcomed.

The Committees should endeavour to use all the tools in the current EU regulatory framework to enhance their cooperation in supervision. Where current legislation proves to be a hindrance to a pragmatic and efficient supervisory framework, the Committees should make initiatives to the European institutions for the necessary improvements.

We would be happy to discuss any aspect of our response with you if this would be helpful.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Jarkko Syyrilä', with a stylized flourish at the end.

Jarkko Syyrilä  
Head of International Affairs