EFAMA'S REPLY TO

CESR'S CONSULTATION ON PUBLICATION AND CONSOLIDATION OF MIFID MARKET TRANSPARENCY

The European investment management industry, represented by EFAMA[1], is pleased to comment on CESR's Consultation on the Publication and Consolidation of MiFID Market Transparency.

EFAMA remains concerned about the possibility of data fragmentation under MiFID, as the interests of market participants (stock exchanges, investment banks, asset managers, data vendors) are quite divergent. It is therefore imperative to reach common solutions through industry consultation, to be implemented under CESR's guidance. We highly appreciate CESR's efforts, in spite of the lack in MiFID of language defining its role in this regard.

We would like to make a few general comments regarding the Consultation:

PUBLICATION ARRANGEMENTS AND CONSOLIDATION

EFAMA believes that the majority of asset managers will choose not to publish directly trade information through proprietary arrangements, but will rather reach an agreement with a Regulated Market, an MTF or an intermediary. In this regard, the liability of an investment firm when publication is delegated to another party must be clarified. CESR states in Para. 5.26 that the "ultimate responsibility for complying with the MiFID requirements resides with the relevant RM, MTF or investment firm", but in case of delegation an investment firm might be unable to verify whether the publication occurs, or check the quality of the data. A verification would certainly be impossible in advance of publication, in view of the fact it must happen almost in real time. It is therefore highly important that the obligation of the delegating investment firm be satisfied by taking all reasonable steps to ensure that publication occurs according to guidelines and contractual agreements, but that actual responsibility for the publication and data quality rest with the delegated entity.

[1] EFAMA 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 42 corporate members, EFAMA represents at mid-2006 about EUR 14 trillion in assets under management, of which EUR 7 trillion through about 46,000 investment funds. For more information, please visit www.efama.org.

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PUBLICATION STANDARDS

As we already stated in our reply to CESR’s Call for Evidence in April, we believe that agreement on data formats, protocols and messaging standards should be achieved by market participants in a neutral forum with CESR’s assistance.

We stand ready to answer any questions you may have regarding our comments.

Steffen MATTHIAS
Secretary General

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