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Mr Fabrice Demarigny
The Committee of European Securities Regulators
11-13 Avenue de Friedland
75008 Paris
France

**Response to CESR's Consultation Paper Ref: CESR 06-669:
'The Passport under MiFID'**

Dear Sirs,

The Irish Association of Investment Managers ('IAIM') represents the Irish investment management industry. IAIM is pleased to have this opportunity to comment on The Passport under MiFID.

We are in favour of all proposals which enhance regulatory harmonization and we are in broad agreement with the assessments and proposals outlined by CESR in the consultation paper.

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

Q 1: *As regards 31 (3) do you agree with the above regarding what should be the date from which a firm can start to provide cross-border investment services in to the host Member State under a Passport? If not, for which reasons?*

IAIM agrees with this proposal.

Q 2: *Concerning article 32(6) do you agree with the referral of the firm by the home regulator to the host regulator's or CESR's website when applying for a branch passport, when necessary?*

IAIM agrees.

Q 3: *Do you agree with the proposal set out in paragraph 24?*

We agree with this proposal.

Q 4: *What are your views on the exposition given in paragraphs 31-36 above? What grounds do you have to support your views?*

We agree with the exposition in paragraphs 31-35. Firms acting on a trans-national basis will have the coherent policies and controls referred to in paragraph 36. IAIM suggests that a corollary of this is the need for Regulators to have a common view of the regulatory and supervisory issues across borders.



Q 5: Do you agree with the practical supervisory challenges as identified by CESR? Are there any others that you envisage may occur and could benefit from consideration by CESR?

IAIM agrees with CESR's assessment. We again emphasise the value of a common regulatory approach.

Q 6: Do you agree with the suggested desired outcomes? Are they capable of being shared for the benefit all stakeholders?

We agree with the desired outcomes and provided that the unnecessary burdens referred to in paragraph 42 are avoided these benefits can be shared between stakeholders.

Q 7: Do you agree with the broad 'criteria' outlined above and as set out in more detail in Annex 2, against which CESR will evaluate possible solutions? Do you have any comments? Are there any others you would suggest that could be material when considering the relative merits of different practical solutions?

IAIM agrees with the broad criteria set out in paragraphs 43-46 and in Annex 2. We would caution against the suggested criteria been seen as exhaustive or the detailed elements within each criterion being viewed as definitive indicators.

Q 8: Do you have any comments on the possible solutions identified above? Do you have any others that you feel could help?

We regard these as practical options/solutions. However we again caution that they should not be seen as definitive or construed as formal procedural guidance. The Inter-Regulatory Authority Co-operation present under ISD would provide a suitable precedent for developing mechanisms to resolve, in a practical way, the challenges in supervising branches.

Q 9: Do you agree with the broad evaluation and conclusions as outlined in paragraphs 50-55 above? What does your own evaluation suggest? What evidence base can you provide to support your conclusions?

Two blank tables are provided at Annexes 3(i) and 3(ii) for respondents to use to create their own 'tick lists' to help formulate their own evaluation. CESR would welcome completed copies together with supporting analysis as part of any feedback to this consultation.

IAIM is broadly in agreement with these evaluations/conclusions. We have some concerns that the analysis in paragraph 55 could lead to an inconsistent approach across the EU. We suggest that the delegation or outsourcing of supervisory tasks should only be on an exceptional basis. Regular action of this type could undermine core objectives of harmonization and contribute to disparity in regulatory supervision between Member States.

We believe that Annexes (3(i) & 3(ii)) are useful but they also demonstrate how it is possible to migrate from practical supervisory approaches to more rigid and formal structures.



Q 10: *In the absence of a single public registry of tied agents, how might Member states enhance co-operation for the benefit of clients?*

See answer to Question 12.

Q 11: *Do you agree that there is a need for co-operation between competent authorities to help ensure that the requirements for good repute and possession of knowledge for tied agents can be met in practice? Do you agree that prior to registration the home Member State should be able to exchange information with the competent authority of the Member State where a tied agent is located to help establish that he has the required good repute and knowledge? Would any specific guidelines be helpful; if so, what are your suggestions?*

We agree on the need for co-operation and exchange of information. Specific guidance would be helpful and might be an outcome of the further work proposed.

Q 12: *To help resolve the practical questions on the supervision of tied agents, good co-operation between regulators will be necessary. CESR is minded to conduct further work in this area. Do you have any practical suggestions or comments that could help CESR fine-tune its approach for tied agents?*

We support the suggestion to conduct further work in this area.

Q 13: *Do you agree that a common approach on deciding what constitutes passporting for an MTF, as referred to in Article 31 (5) and (6) MiFID, by all CESR members will benefit investors and industry?*

IAIM believes that a common approach will benefit investors and industry.

Q 14: *Do you agree with the suggested criterion ("connectivity test") for deciding whether an MTF is passporting its services/activities? If not, should the criterion be adjusted or replaced or elaborated on more and for which reasons?*

We agree with the connectivity test.

Q 15: *Do you agree with the arguments set out in this chapter?*

We agree.

Q 16: *Do you agree with the proposal of mapping ISD to MiFID proposed in Annex 1? What changes or possible alternatives would you suggest?*

IAIM is satisfied with the mapping proposed in Annex 1.



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Q 17: *Do you consider the suggested approach appropriate and/or do you see other issues that should be handled in this protocol?*

We believe the proposed scope of the protocol is reasonable. A commitment to review its appropriateness at stipulated intervals may be useful. Over time it should be appropriate to expand the scope of the protocol.

Yours sincerely,

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