



Bundesverband Investment
und Asset Management e.V.

Contact:
Marcus Mecklenburg
Phone: +49.69.154090.236
Fax: +49.69.154090.136
marcus.mecklenburg@bvi.de

September 11, 2006

Mr. Fabrice Demarigny
Secretary General
Committee of European Securities
Regulators
11- 13 Avenue de Friedland
F 75008 Paris
France

Public Consultation on CESR Work Programme on MiFID level 3 Work

Dear Mr. Demarigny,

BVI¹ welcomes the opportunity provided by CESR to express its views on the proposed work programme for level 3 measures in relation to Markets in Financial Instruments Directive (MiFID).

We highly appreciate the forceful commitment of CESR to ensure a common approach to implementation and application of the new Directive among EU supervisors. Indeed, in many respects, further work at level 3 of the Lamfalussy process is essential to provide for consistent interpretation of MiFID provisions and conformance with corresponding financial market legislation, and thus, to lay foundation for the proper functioning of a true Single Market for financial services.

Notwithstanding this general appraisal, we are of the opinion that supervisory initiatives must in no case interfere with the practical implementation of level 1 and level 2 provisions. Due to the scope and complexity of technical and operational measures necessary to attain full MiFID compliance on November 1st, 2007, investment firms have to exploit the transitional period to the full and to press ahead implementation projects full steam as soon as MiFID regulation is concluded at national level which is due to happen before January 31st, 2007. If published in the course of the transitional period or, even worse, shortly before its end, any new standards or guidelines pertaining to MiFID implementation will, regardless of their

¹ BVI Bundesverband Investment und Asset Management e.V. represents the interest of the German investment fund and asset management industry. Its 83 members currently manage assets in excess of EUR 1.3 trillion in mutual funds and mandates. For more information, please visit www.bvi.de.

Director General:
Stefan Seip
Managing Director:
Rüdiger H. Päsler
Rudolf Siebel

Eschenheimer Anlage 28
D-60318 Frankfurt am Main
Postfach 10 04 37
D-60004 Frankfurt am Main
Phone: +49.69.154090.0
Fax: +49.69.5971406
info@bvi.de
www.bvi.de



practical signification, inevitably cause additional costs and add to the difficulty to finalise implementing measures on time.

Hence, we urge CESR to carefully reconsider the possible areas of work and to concentrate its efforts for the time being on issues with pressing needs for further clarification before the entry into force of MiFID provisions. In these selected areas, the interpretative work of CESR must be conducted as swift as possible and the results should be presented to the industry in the first quarter of 2007 at the latest. Particular preference should be given to issues implying modifications of IT infrastructure (e.g. transaction reporting) or requiring a harmonised approach for proper application (e.g. functioning of the EU-passport).

As a consequence, issues for clarification declared only "important" in contrast to "necessary" (see p. 5 of the Consultation Paper) would have to step back and wait until the practical transposition of MiFID is concluded and first experiences could be gained with the new regulatory regime. For instance, guidance in terms of best execution and inducements announced for the second and third quarter of 2007 (p. 7 of the Consultation Paper) should, as these issues are of no pressing importance, be retained in the pipeline until the rush for implementation of MiFID has passed by. On the other hand, clarification of issues relating to transaction reporting (see p. 9 of the Consultation Paper) must, as far as deemed urgent, be speeded up in order to enable investment firms to take CESR's recommendations into account when making technical and operational arrangements for implementation.

Finally, we request CESR to bear in mind the hardly manageable abundance of regulatory measures confronting the financial services industry at EU-level in the course of realisation of the Financial Services Action Plan. Thus, any new set of rules, be it at regulatory or supervisory level, must be carefully assessed in terms of its expected benefits which should clearly outweigh corresponding operational and financial burdens for market participants.

We hope that our remarks are of help for CESR's continuing work on level 3 measures relating to MiFID and remain at your disposal for any questions that may arise.

Yours sincerely

BVI Bundesverband Investment und Asset Management e.V.

Signed:
Marcus Mecklenburg

Signed:
Dr. Magdalena Kuper