

Email Fabrice Demarigny / CESR 190405

From Anthony Belchambers, CEO, FOA

CESR/CFTC Communiqué (CESR/05-245): 31st March 2005

Further to your request for input regarding the forward work programme set out in the above-mentioned communiqué, I have set out below a few brief observations. In general terms, however, we strongly welcome this initiative and are very supportive of the objectives of introducing greater clarity and simplification of US/EU regulatory requirements and recognition procedures and the parallel programme of work regarding targeted cross-border issues.

- In the third indent on page one, the FOA is not entirely convinced that the ability to ascertain a jurisdiction's regulatory and market requirements is critical to the choice of "efficient" risk management tools. The FOA would argue that while it may go to the need to better understand the regulatory risk and the rights of access to such "tools", the question of their "efficiency" is more a matter of exercising informed choices and in being able to access appropriate market mechanisms and products rather than just the requirements that attach to them.
- In the fourth indent on page one, we would hope that the theme of being able to make more informed choices would be coupled with the need to ensure that market users are able to make "wider" choices and that ready access to regulatory and market information would enable them not only to "better protect their interests", but, bearing in mind the critical risk management role of derivatives, they would be able to effectively manage their risks rather better.
- In the fifth indent on page one, the FOA would wholly support this objective, but is disappointed that the benefits of greater operational efficiency, and the need to avoid the imposition of unnecessary trading costs (for both intermediaries and market users) are not perceived as objectives of equivalent importance alongside those of wider choice as well as improvements in the structure of firms' global operations.
- In Part III (Targeted consultation on cross-border issues), the FOA, perhaps not surprisingly, is very supportive of the proposal to enhance input from cross-border market participants. In this context, both CESR and the CFTC are familiar with the Transatlantic industry initiative to provide an industry "wish list" prioritising areas for better regulatory coherence and simplification. Actually, we would hope that "wish list" would be eligible to be considered for the purposes of incorporation within the forward work programme envisaged by CESR and the CFTC provided subject, of course, to their relevance to derivatives and the issue of practical deliverability.

As an aside, we believe that CESR and the CFTC should give serious consideration to setting up industry committees on each side of the Atlantic for the purpose of providing consultative bodies (but recognising that the final arbiters will always be CESR/CFTC in determining priority areas). In our view, this would be a key part of, to use the words in the Communiqué, "enhancing" industry input. Consideration might also be given to including within those groups representatives from the institutional and corporate "buy side" to provide counterparty/professional customer input.

The Communiqué makes reference to the need to suggest "additional broad areas of inquiry or specific examples of the types of inquiries that should be made as part of

the work programme". It is anticipated that this project and the parallel consultation with member firms should provide precisely this kind of information by the end of May/early June.

I hope these few comments are of interest.

Regards
Anthony

Anthony Belchambers
Chief Executive
Futures and Options Association

P.S. As an aside, we have tried to identify the relevant paragraphs from the Communique as requested, but it might be helpful if the indents could be notated for this purpose in future.