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ANSWERS TO CESR's ADVICE ON LEVEL 2 IMPLEMENTING MEASURES FOR THE PROPOSED PROSPECTUS DIRECTIVE

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INTRODUCTION

EUROPEAN CONSUMERS and ASSOCONSUMATORI are italian consumers' associations. Regarding the position of retail investor, we deem that he can be considered as a "financial products' consumer". The proposed directive allows to reach a significant objective of consumers' protection in a context of a CE dimensioned capital market: the disclosure proposed parameters represent in this way a meaning incentive for development of market itself.

If this is certainly important for the above mentioned target of investor protection, we believe that the next step should be a reform of intermediation's regulation: it's of common experience that issuer's disclosure regulation is insufficient to ensure at all investors from misleading information's risk, while, historically and practically, the issuer meet the investor through financial intermediary.

Answering this present consultation about minimum information, format of the prospectus, and annual information, we intend to contribute to a "consumers friendly" european capital market's development.

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ANSWERS (related to § number).

III.1 DERIVATIVE SECURITIES

§ 32. Do you consider that this disclosure is relevant for these products? Please give your reasons.;

§ 34. Do you consider that disclosure about the principal markets in which the issuer operates is relevant for these products? Please give your reasons.

§ 36. Do you consider that disclosure about an issuer's significant business developments is relevant for these products? Please give your reasons.

§ 37. Do you consider that this disclosure is relevant for these products? Please give your reasons.

§ 39. Do you consider that disclosure about an issuer's major shareholders is relevant for these products? Please give your reasons.

The answering associations preliminarily observe that in the absence of an agreed definition of derivative securities, it can be potentially difficult to apply the proposed disclosure section. Moreover, it is our opinion that the question "what is" the proposed investment, related to prospect, must be answered.

About that, in spite of the fact that this is not expressly requested by this consultation, the writing associations propose to insert a brief description or the use of a conventional denomination which can help the investor to understand clearly what sort of product he is buying.

The proposed disclosure parameters in argument regard: A) "a brief description the issuer's principal activities, stating the main categories of products sold and/or services performed ... [together with] an indication of any significant new products and/or activities"; B) the principal markets in which the issuer of derivatives competes; C) the business development of the issuer; D) disclosure about the administrative, management, and supervisory bodies conflicts of interests; E) about the issuer's major shareholders.

The writing associations consider the proposed disclosure parameters A, B, C, E important for investors: these informations can certainly help the investor to identify the issuer itself and its conduct on referred markets.

However, what the investor will buy is only a financial instrument, and normally he doesn't intend to be a issuer's shareholder. Our advice is that the informations referred to A, B, C, and E, should be absolutely available to investor but are not essential in prospect, unless and only if they show a conflict of interests with the front line financial company or bank that is having the product subscribed by consumers (the retailer).

Detailed informations about the conflicts of interests and the real possibilities to condition the market and the underlying value from issuer, can let the investor adopt such a "choice parameter" to avoid a significant "misleading operation risk" by the issuer or by the retailer itself.

Moreover, informations referred to A,B,C and E that are considered essential are the ones on the activity of the retailer itself, which must show clearly its efficiency in advising consumers through general annual results on portfolios (see ahead in this document).

§ 59. Do you agree with CESR's revised approach in relation to retail non-equity securities and wholesale non-equity securities? If not please give your reasons.

EUROPEAN CONSUMERS and ASSOCONSUMATORI agree with CESR's revised approach, except for what regards the profit forecasts or estimates.

About this issue, it could be meaning to investor to receive such informations, with a brief description of how the derivative works. In some of the following answers, this point of view will be clarified in relation to CESR's consultation.

§ 61. Do you agree that information about investments should not be required for banks issuing wholesale debt securities? Please give your reasons.

§ 64. Do you consider that information on investments is relevant for wholesale debt securities? Please give your reasons.

The writing associations consider that such informations about investments should be relevant in any case to investors, regardless if the issuer is a bank or not.

§ 75. Do you consider that examples are necessary in order to fulfil the principle that the prospectus must contain a clear and understandable explanation of how an investor's return is calculated and how the instrument works? Please give your reasons.

§ 76. What other methods (if any) do you consider can be used to provide investors with a clear and understandable explanation of how an investor's return is calculated and how the instrument works? Please give your reasons.

The writing associations consider that the inclusion of examples can help to make clear and understable an explanation of the charateristics of the instruments.

About the proposed argumentations on the inclusion of examples in prospectuses, the writing associations consider as follows:

- examples can't be misleading as, by their very nature: they can only present a limited number of scenarios. Clearly, these informations should be provided accompanied by an advice regarding the simplifications related to examples and that these aren't exhaustive of any possible market condition;
- examples can oversimplify the working of products, in the way they are prospected. Naturally, a misleading example raise to false expectations: in order not to be misleading, examples must be realistic and show the impact of a positive, negative or neutral evolution of the underlying;
- it is of common experience that not every investor who buys sophisticated products is "educated" and do need examples. The terms and conditions for some complex products are not often easily understandable and readable, and need examples to better understand the way in wich the instrument works;
- the risk factors section of a prospectus must show risks that an investor may lose the value of his investment: it is not enough to know that a product is risky and that investors can lose their entire investment (see risk factors and warnings): for those who want to take that risk, it is important to be able to

understand precisely in what circumstances they can obtain a positive return. A written mandatory form represent therefore a better guarantee for investors;

- rules of conduct are not sufficient to meet the concerns of investor protection without the need for examples in the prospectus;
- the information included in the prospectus must be presented in an easily analyzable and comprehensible form, and examples help the investor to understand the issuer's proposal;
- the term “guaranteed products” and other such marketing terminology might be potentially misleading. In such cases, concrete examples demonstrating, for instance, that investors would earn more by investing on a risk-free investment, such as government bonds, than by investing in the product, even in the worst-case scenario, can be particularly relevant.

§ 77. If you do not consider that examples are necessary to provide investors with a clear and understandable explanation of how an investor's return is calculated and how the instrument works, do you consider that the provision of examples in the prospectus is useful for investors? Please give your reasons.

§ 78. Do you consider that the use of examples in the prospectus is dangerous and misleading and should not be mandatory? Please give your reasons.

No comment (see answers to questions §§ 75, 76).

§ 79. If examples are to be included in the prospectus, do you consider that CESR should stipulate how the examples should be prepared, for example that they should be realistic, not misleading and should provide a neutral view of how the instrument works?

§ 80. If your answer to the previous question is yes do you think that examples should also fulfil other requirements (for example: the need to insert the break even point for the investor)? Please state these other conditions.

Examples should also refer of effective past activity of retailer on its clients portfolio, given general paramters to be established by CESR.

In this way examples would look more realistic, not misleading and should provide a neutral view of how the instruments works. They also should show the costs and the issuer's remuneration.

Having regard of investor interest (profit maximization related to risk), they should show the break even point, and profit and loss scenarios.

It is our advice that CESR must stipulate how the examples should be prepared and the relative criteria: in this way, it would be guaranted uniformity and flexibility of the presentation to the public.

§ 81. Do you consider that examples should be provided for derivatives? Please give your reasons.

§ 82. If yes, for which types of derivatives should examples be provided? Please give your reasons.

§ 83. Are there any other type of securities for which you consider examples should be provided, for example structured debt instruments that have a derivative component?

The derivative instruments' profitability is strictly connected to the performance of the underlying value. The examples should represent at first the link between instrument's profitability and underlying's performance.

The writing associations consider that the prospectus of structured debt instruments (for example: structured bonds) must be submitted to the same provisions.

§ 89. Which of the above options do you consider should be adopted by CESR (1, 2 or 3)? Please state your reasons.

EUROPEAN CONSUMERS and ASSOCONSUMATORI believe that the best options is a mandatory indication about volatility and past performance, and where such informations should be found.

The writing associations also consider that:

- if past performance of issuer does not give any reliable information regarding future performance, helps to understand the product and to assess its risk and, more important, its volatility;
- it will not be expensive and difficult to produce this kind of information: moreover, a issuer can have an interest to show to investors the profitability of the proposed investment, but if information on efficiency of retailer/advisor is implemented, this is more likely to have a positive effect on market and on consumer protection because the same retailer will define its parameters on the basis of its' performance on portfolios, and show these to consumers developing its' essential role of advisor;
- it can help to take an investment decision, expecially if the investor can compare the instrument's performance with the related benchmark of its advisors' activity: for example, a good performance of one issuer may, in this way, be considered poor or inadequate performance if related to a single portfolios' performance;
- pricing made by the issuer is based on the past performance of the underlying;

In any case, such disclosure requirement can be not misleading if clearly mentioned that the past performance does not give any certainty for the future.

III.2 BASE PROSPECTUSES

§ 101. Do you agree with this generic rule?

The answering associations agree with the proposed generic rule: a “modular” structure of prospectuses can be useful for both investors and issuers.

§ 112. Which of these two approaches do you think should be applied to base prospectuses? Please give your reasons.

The answering associations consider that there may be items of the final terms that need also to be translated, even if they do not form part of the approved summary.

§ 115. Which of these views do you consider should apply to base prospectuses with multiple products? Please give your reasons.

The writing associations consider that it should be left to the issuer to decide how to comply with the general requirement of summary content as set out in Articles 5 (1) and (2).

§ 122. Which of these views do you consider should apply to the form of final terms? Please give your reasons.

In relation to the final terms and to the form in which these have to be presented to the competent authority, the answering associations agree that there may be situations where in addition to the final terms the issuer produces a document that replicates some information already provided in the base prospectus.

About that, we agree with the third view, to let that the issuer may be allowed to choose whether to file the full prospectus (base prospectus plus final terms) or only the final terms but the issuer should not be allowed to file a document which replicates only ‘some’ information already provided in the base prospectus.

We consider also that if the document presented includes information in addition to the final terms, such final terms should be easily identifiable. In any case, the final terms must make clear that the document is to be read in conjunction with the base prospectus.

This approach can represent a simplification for issuers, and can be not misleading or complex to investors.

§ 125. In relation to the publication of the final terms, should the method of publication be restricted as set out in Article 14?

No comment.

§ 127. Do you agree with this analysis?

The writing associations agree with the proposed analysis.

§ 131. Do you agree with the above additional disclosure requirements in relation to base prospectuses?

§ 132. Are there any other disclosure requirements that are not specified above that you consider necessary for base prospectuses? If so, please specify what these are and give your reasons for why you think they are necessary.

The writing associations agree with the additional disclosure requirement in relation to base prospectuses. But also consider relevant that the 'intermediation company' - whether banks, financial companies, advisors, or whoever authorized - should also and always present to consumers their own prospectus, relative to their own efficiency, on the basis of the profitability of past investment choices and proposals to consumers, divided by the different instruments and products, and these composing one of the relevant aspects of the 'examples'; while CESR should define the benchmark parameter that should be clearly set and standardized at european level the definition of this efficiency.

§ 136. Do you agree with the above types of base prospectuses?

§ 137. Are there any other types of base prospectuses that you consider are necessary? Please give your reasons.

EUROPEAN CONSUMERS and ASSOCONSUMATORI agree that the information given on different products should not be mixed up, and agree with the proposed types of base prospectuses.

III.3 WHOLESALE DEBT SN

§ 143. Do you agree with this approach?

§ 144. Do you consider that the information provided for in Annex F is adequate for wholesale investors? Please give your reasons.

§ 145. Are there any other items included in the retail debt SN that should be included for wholesale investors? Please give your reasons.

No comment.

III.4 CLOSED ENDED INVESTMENT FUNDS

§ 151. Do you agree with the disclosure obligations set out in Annex G as being appropriate for this type of issuer? Please give reasons for your answer.

The writing associations consider the disclosure about annex G and as follow (Investment objective and policies; Investment restrictions; Service

providers; and Valuation and redemption) is appropriate for closed ended investment funds in relation to the length of investment.

§ 154. Do you consider there is a distinction to be drawn between these two types of activities, as set out above? Please give reasons for your answer.

§ 155. What would you consider to be an appropriate and sustainable distinction between both activities?

The answering associations agree with the proposed distinction based on such criteria as the (long or short) term of investments, and as the operations performed by the issuer.

A sustainable distinction between both activities should consider the different risks accepted by management and by investors.

III.5 SN BUILDING BLOCK ON UNDERLYING FOR EQUITY SECURITIES

§ 162. Do you agree with this approach?

§ 163. Do you agree with the disclosure requirements of the building block concerning the underlying for equity securities as set out in Annex H?

The writing associations disagree with CESR's different approach concerning the information on the issuer of the underlying security, based on the situation if the shares to be acquired are the shares of the issuer itself and if the shares to be acquired are the shares of an entity belonging to the group of the issuer.

Our opinion is infact that the disclosure requirement should be the same required by CESR for issuers issuing their own shares.

§ 165. Do you deem the Working Capital Statement and the information on Capitalization and Indebtedness necessary for an informed assessment of the securities in cases of products which can be converted or exchanged in newly created shares? Please give your reasons.

The writing associations deem that the Working Capital Statement and the information on Capitalization and Indebtedness are necessary for an informed assessment of the securities in cases of products which can be converted or exchanged in newly created shares.

§ 167. Do you agree with this approach?

EUROPEAN CONSUMERS and ASSOCONSUMATORI agree with the proposed approach.

§ 168. Do you agree with the combinations set out in the table?

The writing associations agree with the proposed combinations.

IV. FORMAT OF THE PROSPECTUS

§ 172. Which of the options set out above do you support? Please give your reasons for your choice.

The writing associations deem as desirable that the issuers, when drafting their prospectus, should follow the order of the disclosure requirements in the different schedules in order to ensure a full and easy comparability for investors of prospectuses in the European market.

§ 176. Which of the options set out above do you support? Please give your reasons for your choice.

The writing associations consider that in a single document prospectus, the prospectus should start with the summary, followed by the securities note requirements and then the registration document requirements.

§ 182. Which of the options set out above do you support? Please give your reasons for your choice.

In order to allow different approaches, the answering associations consider that, if integrating the new information directly in the original summary, in order to have an up-to-date summary, it can be difficult to provide it easily and quickly in written form.

About the second and preferred option, producing a supplement to the summary together with the supplement to the prospectus, limited to the new information, there is the problem that investors will have to read the original summary together with the supplement to the summary in order to have a full picture, but it would be easier and cheaper to obtain the necessary informations.

VI. ANNUAL INFORMATION

§ 237. Do you agree with the method of publication proposed?

§ 238. Do you consider CESR should limit the issuer's choice to one or more methods of publication? Which ones?

The answering associations agree with the proposed publication's method. Moreover, consider that CESR could choose to select some of those means of publication, e.g. the issuer's website or the website of the Competent national and European Authority.

§ 239. Do you consider that a deadline should be defined? If so, do you agree with the proposed deadline or would you suggest a different one? Please give reasons for your answer.

The answering associations agree with the proposed term (seven business days after publication of the financial note).

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Rome, 12 august 2003.

Best regards,

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