

Response to CESR re Admission of Financial Instruments 020305

From: Anthony Belchambers, Chief Executive, FOA, London

2 March 2005

(March/Email to CESR ...020305)

“Admission of Financial Instruments to Trading on Regulated Markets: CESR’s Second Consultation Paper”

I am writing to provide you with what is a very brief response to the above-mentioned paper and, in particular, to the proposed requirements for the trading of derivatives on a regulated market.

Para 16(b)

- The FOA understands and acknowledges the importance of transparency on a regulated market, but would question whether there would always be a “publicly available” price for the underlying.

For example, bearing in mind that regulated markets will increasingly look to capture OTC business for trading on their market rather than see clearing, which traditionally has been a key benefit of trading on a regulated market, delivered into the OTC market. This means that, in some cases, not all of the measures for assessing an underlying price may be readily ascertainable. In other cases, there simply may not be a publicly available price. This is particularly the case in certain types of complex or illiquid OTC transactions. Indeed, the difficulties of valuation are recognised in the conduct of business rules of most member states where the provider is recognised as often being the only individual who can, with any degree of accuracy, assess an underlying price.

In other words, the more flexible approach which is afforded to “commodity derivatives” in that same sub-paragraph should be extended to apply to all derivatives, particularly where the posting of a derivative contract on a regulated market would actually assist in price discovery of the underlying. To do otherwise would surely be to constrain rather than enhance price transparency.

Para 16(c)

- The FOA questions the meaning of “sufficient” in the context of a regulated market being satisfied that there is sufficient information typically needed to “value a derivative”. For example, referring back to para 16(b), if there is insufficient information about the price of the underlying, then it may not be possible to guarantee the sufficiency of information to value the derivative. Surely, the appropriate requirement would be to ensure that information, where accessible, should be made available by the regulated market for the purpose of valuation.

Para 16(d)

- The FOA would suggest that the words “so far as practically possible” are included after the words “... settlement price of contract should ensure that the price ...”.

Aside from the above points, which the FOA believes reflect market reality without undermining the principal objectives behind CESR's Advice, the FOA welcomes the modifications to the original consultation produced by CESR in this second consultation paper.

Regards
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FOA