For the kind attention of:
Mr. Fabrice Demarigny
Secretary General
CESR
secretariat@europefesco.org

Milan, 24 January 2003

**CESR consultation paper on its proposed advice to the European Commission regarding technical implementing measures for the proposed directive on "The prospectus to be published when securities are offered to the public or admitted to trading"**

**IntesaBci response**

Part One – Minimum information

A.Registration Document

Article 43. of CESR consultation paper states that the Core Equity building block for equity issuers (Annex "A") draws heavily on the IOSCO disclosure standards. As most of CESR's advice appears to be consistent with such standards, which are already operational, we will limit our responses to the sole topics upon which we do not agree or have doubts. We therefore have no particular views, and/or agree, on the rest of the document, apart from the quoted items.

| No. | Question | Response |
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| | **REGISTRATION DOCUMENT:**<br>**– EQUITY SECURITIES** | |
| 53. | Do you agree that 25% [of appropriate financial indicators] is the correct threshold [for having to present pro forma financial information]? Would a different figure, say 10%, be more appropriate? | We do not agree on providing a quantitative threshold figure as regards the obligation of including pro forma financial information, for the following reasons:<br>1. Notwithstanding provision of article 54 that allows the competent authority to insist on pro forma financial information being included if regarded as material, the proposed recommendation would give issuers good reasons for avoiding pro forma information, even if specific cases falling outside the threshold should prove worthwhile or sensible to be included<br>2. It is not clear whether all the proposed indicators should be met at the same time or just a majority of them or even a single one<br>3. In some cases the opportunity of providing pro forma information is more based on perspective projections than on historical data, together with intangible or qualitative reasons |

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| | | (history of and risks associated with the business acquired, sector perspectives etc.) |
| 64. | Do you agree with the disclosure requirements in respect of pro forma financial information as set out in Annex “B”, in particular with the obligation of an independent auditor’s report? | The inclusion of pro forma adjustments in the columnar format of the financial information (see Annex “B”, para. b), though sensible, could render the charts more difficult to read and interpret, in particular when more fiscal years are compared in one single table or more transactions are involved, from the mere point of view of the graphical layout.<br><br>As far as the obligation of an independent auditor’s report is concerned, this is already operational in Italy (see Consob Rule n° 11971/99, Scheme 1, article 4.13.3) |
| 73. | Do you have any comments at this stage about this preliminary definition of a profit forecast? | CESR position is to encourage issuers to disclose their quantitative forecasts in the prospectus. But admittedly, such information could, in the worst case, prove to be misleading. We think that disclosure of profit forecasts or similar projections, in addition to those prescribed by law such as business prospects of the issuer for the current fiscal year, entails important liabilities to the issuer and also to the sponsor/financial advisor because:<br>1. forward looking quantitative statements, although supported by disclosure of underlying assumptions and other more explicit disclaimers, solicit a certain trust in such development, in particular insofar as associated with an equity offer<br>2. imply subsequent careful ongoing reporting and ad-hoc disclosure<br><br>This is why forward-looking statements already today required by law are included in prospectuses in a very selective manner. Irrespective of the Start-up Companies special building block, which correctly requires a higher degree of disclosure on perspective financial information, we would recommend a softer and more open stance by CESR on the issue of profit forecasts in general |
| 93. | Do you feel that issuers should be required to put on display all documents referred in the prospectus (as set out in CESR reference VIII in Annex “A”)? | Material contracts shouldn’t be put on display for the following reasons:<br>1. paragraph VIII C already requires a detailed summary of each material contract |

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| | Would this cause problems due to privacy laws or practical problems as a result of having to review lots of documents for commercial information? | 2. contracts are often lengthy and complicated documents, and a minimum part of them is generally material, while providing them in full could prove to be misleading<br>3. privacy reasons, if "disclosure of such information would be seriously detrimental to the issuer, provided that the omission would not be likely to mislead the public with regards to facts and circumstances essential for an informed assessment", as stated by article 8 of the proposed UE Directive |
| 95.<br><br><br><br><br><br><br><br>96. | Do you believe that the building blocks in Annexes "D", "E" [Property Companies] "F" [Mineral Companies], "G" [Investment Companies] and "H" [Scientific Research Based Companies] are appropriate as minimum disclosure standards?<br><br>What other specialist building blocks (if any) should CESR consider producing in the future? | Our position about specialist building blocks is as follows: we agree in principle on the opportunity that prospectuses contain specific information for specific market segments. Nevertheless we wouldn't indicate other specialist building blocks further to the abovementioned, leaving to market best practice the task of providing appropriate disclosure and, possibly, to the single competent authorities the opportunity of providing more specific requirements (for instance in Italy Consob already requires specific schemes for banks and insurance companies) |
| 105 | Do you believe that SMEs (Small or Medium-sized Companies) should only be required to provide details for two years under disclosure requirement II.A? | We don't consider that having to disclose only the last two instead of three fiscal years' financial information would be really beneficial to SMEs in terms of materially simpler burdens and reduced costs of drafting the prospectus. Instead, the provision of only two fiscal years' financial information could result to be detrimental to investors because they cannot assess the historical performances' trends properly. |
| 146. | If you consider that the reduced level of detail [for interim financial statements to be disclosed in debt securities prospectuses] is more appropriate, should the same approach be taken for equity? | We consider the level of detail set out in VII.H.2 of the CESR Core Equity building block as appropriate and wouldn't therefore amend it. |

<u>B.Securities Note</u>

In the present and in the following sections, we will limit our responses to the sole topics upon which we do not agree or have doubts. We therefore have no particular views, and/or agree in principle, on the rest of the documents, apart from the quoted items.

| No. | Question | Response |
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| | **SECURITIES NOTE:**<br>**– EQUITY SECURITIES** | |
| 250. | Format of the Schedules - Is the format of the three main schedules suitable? These schedules are composed of (i) common items and (ii) specific items for each type of securities, amalgamated in one single document. Is this approach sensible or should the common items and the specific items form distinct blocks? | We don't think that common and specific items should form part of distinct blocks, and would rather follow an integrated approach, where logically linked items go under common paragraphs, irrespective of the kind of securities involved and of whether they represent common or specific items. |
| 252. | Section I.2 – Should advisers be mentioned in all cases, or only if they could be held liable by an investor in relation with the information given in the prospectus? | We deem the role of the advisers as sufficiently important to be mentioned in all cases, provided that the degree and extension of their liability in relation to the information given in the prospectus be identified specifically by the single Authorities in each Member State |
| 259. | Section V.A. lists the items to be disclosed in order to give a description of the securities that are offered or admitted to trading. Should the following additional items be added to Section V.A.: … b) Court competent in the event of litigation? | We would recommend that the competent Court be a tribunal belonging to the Member State where the issuer has its registered office and to the legislation under which the securities have been created and will be traded |
| 261. | For the three main schedules, please identify those items that you deem unnecessary | Annex "K"<br>V.C.3. Plan of distribution: "To the extent known to the company, indicate whether … directors or members of the company's management, supervisory or administrative bodies are intended to subscribe in the offering…": We consider the provision of difficult application, in particular if involving a large number of persons, insofar as they ought to make a decision largely in advance as compared with ordinary investors.<br><br>V.D.4. (Placing and) Underwriting:<br>a) "names, addresses and descriptions of the natural or legal persons underwriting or guaranteeing the issue for the issuer". Given the extension and complexity of such syndicates in most cases, for the sake of simplicity we would recommend the possibility |

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| | | of omitting such information in the prospectus and integrating it with a notice by the day in which the prospectus has to be published. We would furthermore omit the addresses for the legal persons.<br>b) "describe … the amount of securities being underwritten by each underwriter". Such information could be misleading to investors if interpreted as the degree of confidence of their bank in the proposed offer, and would therefore omit it. The underwriting commitment is nevertheless implicit in the order of appearance of the financial intermediaries in the prospectus and/or in financial advertisements<br><br>V.F.3. Admission to trading and Dealing arrangements: Mention of "Entities which may act as intermediaries in secondary trading, providing liquidity through bid and offer rates". To the extent that the admission to trading does not require a specialist or a nominated sponsor, or no market makers are envisaged on such market or the market is an order driven one, the requirement seems difficult to be met and could prove to be misleading to investors. |

Part two – Incorporation by reference

| No. | Question | Response |
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| 289. | Should other aspects concerning the accessibility of the documents incorporated by reference be considered? | As stated by article 270 of CESR's consultation paper, "the aim of incorporation by reference is to simplify and reduce the costs of drafting a prospectus". Article 293 states that one of the means of availability of the prospectus eligible for the purposes of the Directive is "in the form of a brochure to be made available, free of charge, to the public … at the offices of the financial intermediaries placing or selling the securities". Article 287 states that "the documents incorporated by reference should be made available with the same modalities as the prospectus". It ought to be specified that the abovementioned "offices" are intended to be the head office or headquarters of the financial intermediaries, not every outlet or branch on the |

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| | | territory.<br><br>The aim of simplifying and reducing costs could moreover be hindered by the opportunity of translating in English the documents incorporated by reference for the purpose of the Offering Circular (although not a regulated matter)<br><br>Instead, a good way of simplifying incorporation practices appears to be accessibility in electronic (or pdf-file) format on the issuer's web-site. |

Part three – Availability of Prospectus

| No. | Question | Response |
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| 314. | Are there any additional factors and/or requirements that should be taken into account at Level 2 concerning that availability via the press? | Article 313 states that the newspaper where the prospectus is inserted according to Article 14 (2) a) of the proposed Directive … "b) should be one of the 8 national newspapers with more circulation in the Member State, as ranked by an independent entity; c) It should be a general or financial information newspaper"<br><br>Financial newspapers are, *ceteris paribus*, less diffused than general ones, but nevertheless hit, or tap, more precisely and in a more qualified manner the targeted investors. We therefore fear that in force of the abovementioned threshold some of them could be left aside: we would integrate the recommendation as follows: "b) should be one of the 8 national – <u>or of the 2/3 national financial</u> – newspapers with more circulation" etc. |
| 325. | Do you consider appropriate the requirement to publish the said notice in the absence of a specific provision in the Directive proposal | Adequate visibility about the publication of the prospectus can only be achieved with adequate advertising.<br><br>To this extent we would propose referring the obligation to publish a notice on the newspapers (article 322) also to the case of publication of the prospectus in the form of a brochure (which is the most frequent case of dissemination, to the extent known to us). |
| 326. | Should the minimum content of the | Yes, given the importance and diffusion of such |

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| | notice be determined at Level 2 legislation? | notices. |

IntesaBci
Corporate Division
Equity Origination

## Commenti al "Consultation paper" del CESR (ottobre 2002)

Deadline: 31/12/2002

| No. | Question | Response |
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| | **REGISTRATION DOCUMENT:**<br>– **DEBT SECURITIES** | |
| 129. | Do you consider that the disclosure requirements for debt securities should be identical to those for equity, as set out in Annex "A" ? | Lo schema del "Registration document" proposto dal CESR si riferisce agli emittenti di azioni, come espressamente indicato nell'introduzione. Nel complesso non si discosta molto nei contenuti dall'attuale prospetto di quotazione previsto in Italia per gli emittenti obbligazionari dalle norme attuative del D.Lgs. 58/98 (delibera Consob 11971/99), ad eccezione della richiesta di "disclosures" particolari (i.e. advisers, principal markets, property, plants and equipment, research and development, compenso degli amministratori, export sales, material contracts, etc.).<br>Nel caso in cui si intenda adottarlo come schema anche per gli strumenti di debito, si auspica una semplificazione attraverso l'introduzione di opportuni alleggerimenti (in particolare per gli emittenti bancari) e si attende dal CESR una definizione dei contenuti del "prospetto base" (che dovrebbe essere oggetto di un emendamento alla Direttiva) e un chiarimento sulla possibilità per la banca emittente di optare per quest'ultimo o per quello "standard" (registration document + securities note + summary).<br>In ogni caso, lo schema descritto nell' "Annex I" sembra meno pesante in termini di quantità di "disclosure requirements", pur non trascurando la completezza dell'informazione. |
| 134. | Do you consider disclosure about the issuer's bankers and legal advisers to the extent that the company has a continuing relationship with such entities to be relevant for corporate retail debt? | No, specialmente nel caso in cui l'emittente sia un Istituto di credito sottoposto a vigilanza da parte delle Autorità monetarie dello stato di appartenenza, fatto questo che, pur non costituendo una garanzia ai fini della solvibilità dell'emittente, rappresenta senza dubbio una maggior tutela per l'investitore. |
| 135. | Do you consider that disclosure relating to the bankers and legal advisers who were involved in the issue of that | See above. |

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| | particular debt instrument to be relevant? | |
| 137. | Do you consider disclosure about a company’s past investments in other undertakings to be material for an investor to make an investment decision about investing in the company’s debt? | Può essere utile all’investitore per una valutazione più approfondita della solidità patrimoniale dell’emittente, purchè nel regolamento attuativo siano chiaramente indicate le tipologie di investimenti utili a questo scopo che l’emittente dovrebbe indicare anche sulla base del proprio ramo di attività. E’ ovvio che per gli emittenti bancari, la cui raccolta tramite lo strumento obbligazionario 1) ha caratteristiche ordinarie in relazione alla propria attività 2) non si riferisce a precise ed occasionali esigenze di finanziamento 3) è bilanciata dagli impieghi, questa “disclosure” non è essenziale, soprattutto nella sua diversificazione temporale. |
| 138. | Do you consider disclosure about a company’s current investments in other undertakings to be material for an investor to make an investment decision about investing in the company’s debt? | See above. |
| 139. | Do you consider disclosure about a company’s future investments in other undertakings to be material for an investor to make an investment decision about investing in the company’s debt? | See above. |
| 142. | Do you agree that these different interests should be reflected by different disclosure standards and in particular that retail bondholders do not need the same disclosures as shareholders in respect of these sections of the IOSCO IDS? | Yes, agreed. |
| 145. | Do you consider it necessary for a disclosure requirement that stipulates when interim financial statements should be disclosed in the registration document, to also stipulate what the form and content of these statements should be? | Potrebbe essere utile, da parte del regolamento di attuazione, una indicazione della forma e del contenuto in base ai quali esporre i dati infra-annuali, purchè essi siano quelli già diffusi e resi disponibili dall’emittente e non comportino una rielaborazione ad uso della redazione del prospetto. |
| 146. | If you consider that the reduced level of detail is more appropriate, should the same approach be taken for equity? | *(risposta a cura dell’equity)* |
| 148. | Do you feel that issuer should be required to put on display all documents referred to in the prospectus (as set out in CESR reference VIII in Annex A)? Would this cause problems due to | E’ difficile ipotizzare la totale disponibilità presso il pubblico dei documenti privati dell’emittente, in particolare i contratti, anche se espressamente richiamati nel prospetto.<br>Meglio sarebbe limitare la documentazione a |

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| | privacy laws or practical problems a result of having to review lots of documents for commercial information? | disposizione del pubblico ai soli bilanci, statuto sociale, relazione dei revisori, ovvero a quei documenti per loro natura già pubblici. |
| 149. | On review of the list of documents set out CESR ref. VIII.E of the corporate retail debt building block in Annex “I”, please advise with reasons: (1) Whether or not there are any documents that are listed that you consider do not need to be put on display? (2) Whether or not there are any documents that are not listed that should be put on display? | See above. |
| 150. | Please give views on which if any of the documents that are not in the language of the country in which the public offer or admission to trading is being sought should be translated. | Se consideriamo solo i documenti che riteniamo possano essere messi a disposizione del pubblico come detto precedentemente (statuto sociale, bilanci e relazioni dei revisori), essi sono già pubblicati anche in lingua inglese. Si ritiene che, qualora ciò non sia giudicato sufficiente da parte dell’Autorità di Controllo del Paese in cui si chiede la quotazione o si lancia l’offerta pubblica, si possa procedere ad una traduzione preventiva nella lingua locale. |
| 153. | On a review of the equity disclosure requirements (CESR ref. VIII.G of the Core Equity Building Block) set out in Annex “A”, please advise which if any of these requirements you consider to be relevant for retail corporate debt. Please give your reasons. | Nel caso in cui l’emittente di obbligazioni sia una società capogruppo che redige anche il bilancio consolidato ed esso sia citato “incorporated by reference” nel prospetto, le informazioni dovrebbero già essere disponibili in quel documento. Tuttavia si potrebbero elencare le informazioni di cui ai punti a), b), c), d), omettendo quelle dal punto e) al punto j) in quanto già presenti nel bilancio consolidato. |
| 154. | Do you agree with CESR disclosure proposals for corporate retail debt as set out in Annex “I”? | E’ apprezzabile il lavoro di snellimento delle informazioni richieste all’emittente di obbligazioni rispetto a quelle dovute a chi investe in strumenti di capitale, tenuto conto del diverso contenuto di rischio. Tuttavia dovrebbero essere previsti ulteriori livelli di alleggerimento delle “disclosures” richieste, oltre che in base al tipo di strumento finanziario, anche in base al tipo di emittente ed al suo grado di assoggettamento a preesistenti norme di vigilanza sull’attività svolta (es. Banche). |
| 155. | Please advise which if any items of disclosure should not be required for corporate retail debt. Please give your reasons. | Non si ritengono indispensabili per una valutazione dell’investimento obbligazionario le seguenti “disclosures”:<br>- Advisers (vedi 134.);<br>- Investments (vedi 137.);<br>- Property plants and equipment (non si ritiene che possa essere un elemento aggiuntivo di valutazione dell’obbligazione |

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| | | se non nell'ottica di una chiara ed esplicitata destinazione del ricavato dell'emissione a nuovi investimenti nell'attività produttiva dell'emittente);<br>- Documents on display (vedi 148.). |
| 156. | Please advise if there are any items of disclosure for corporate retail debt that are not set out in the schedule, but should be. Please give your reasons. | None. |
| | **REGISTRATION DOCUMENT:**<br>– **DERIVATIVE SECURITIES** | |
| 160. | Do you consider it necessary to have specific derivative registration document requirements, or do you consider this unnecessary as the registration document requirements for debt securities should be used for derivative securities as well? Please give your reasons. | Se nella definizione "derivative securities" sono comprese le obbligazioni strutturate a capitale garantito, il rischio legato all'emittente non è più elevato di quello delle normali obbligazioni ma aumenta bensì il rischio legato alla remunerazione del titolo per le caratteristiche del contratto derivato sottostante. Si ritiene quindi che le "disclosures" richieste dal "registration document" per gli strumenti di debito siano sufficienti e che tutti gli elementi atti ad illustrare e fare meglio comprendere il rischio insito nello strumento finanziario dovrebbero essere inseriti piuttosto nella "securities note".<br>Se invece si fa riferimento ad es. ai "reverse convertible", è chiaro che a fronte della possibilità che l'investimento obbligazionario si trasformi in investimento in capitale di rischio è necessario integrare il "registration document" con tutte le informazioni necessarie riguardanti le azioni sottostanti (che possono essere dell'emittente o di altra società).<br>E' pertento indispensabile definire con certezza questa categoria di strumenti finanziari. |
| 170. | Do you think it is useful to provide some form of definition for these securities? | Yes, it is. |
| 171. | If so, which of the two approaches set out above do you prefer? Please give your reasons. | E' preferibile definire le caratteristiche ed il contenuto degli strumenti finanziari cd. derivati piuttosto che elencare semplicemente le strutture esistenti e già note. In questo modo non si correrebbe il rischio di escludere le nuove strutture che potrebbero nascere in futuro. |
| 172. | If you prefer the approach based on a wide definition of derivatives, do you have any comments on the proposed definition? | See above. |

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| 173. | If you prefer the approach based on fundamental features, are there other features that should be but are not included in the above list? | |
| 179. | Do you agree with the above broad sub-categorisation of derivative products? | Yes, we agree. |
| 180. | Do you agree with the approach of having two distinct registration document building blocks to reflect this sub-categorisation? | Quando l'intera remunerazione dello strumento finanziario derivato è legata alla performance del sottostante, il rischio dell'investitore dipende strettamente dall'evoluzione di valori o di mercati il cui andamento è indipendente dalla situazione dell'emittente lo strumento derivato, così come illustrata nelle "disclosures" richieste dal "registration document".<br>Quando invece la remunerazione è parzialmente corrisposta dall'emittente indipendentemente dall'andamento del sottostante, il contenuto del "registration document" previsto per i "debt securities" dovrebbe essere sufficiente a formare nell'investitore una opinione sulla capacità dell'emittente di onorare i propri obblighi.<br>In entrambi i casi, quindi, non sarebbe necessario prevedere due diversi schemi di "registration document", in quanto l'elemento che caratterizza la parte aleatoria della remunerazione, ossia il legame con il sottostante, può essere bene illustrato nella "securities note". |
| 185. | Do you agree that the nature of the decision that an investor is making about the issuer in the case of a non guaranteed derivative is different to the one an investor is making in the case of a guaranteed derivative? Please give your reasons. | D'accordo che la natura della decisione sia diversa, ma gli elementi riguardanti l'emittente che sono contenuti nello schema di "registration document" previsto per i "debt securities" dovrebbero già essere in grado di fornire all'investitore tutte le informazioni necessarie per una corretta valutazione dell'investimento, essendo stati concepiti per l'emittente di uno strumento obbligazionario ordinario. Gli elementi variabili riguardanti il rischio legato al sottostante dovrebbero quindi essere riportati e descritti nella "securities note", a meno che i valori sottostanti siano azioni emesse dalla società emittente. |
| 190. | Do you consider that disclosure about the issuer's senior management, as set out in IOSCO reference I.A, is relevant for these products? Please give your reasons. | Non ha più importanza della stessa "disclosure" riferita all'emittente di uno strumento finanziario del tipo "debt securities". |
| 192. | Do you consider disclosure about the issuer's advisers, as set out in IOSCO reference I.B, to be relevant for these products? Please give your reasons. | See question no.134. |

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| 195. | Do you have any views at this stage about CESR's provisional guidance in this area? | Premesso che la descrizione del rischio legato all'emittente andrebbe scissa da quella del rischio legato al derivato sottostante (da descrivere nella "securities note") qualora si optasse per la redazione di uno specifico "registration document" per i "derivative securities" allora la trattazione di tutti i fattori di rischio potrebbe essere collocata nel documento sull'emittente. |
| 196. | Are there any other sections of Key information section at section III of IOSCO that you deem as being relevant disclosure for these products? Please give your reasons. | L'indicazione dei dati finanziari selezionati sull'emittente è comunque importante per fornire all'investitore utili elementi di valutazione. |
| 197. | Are there any sections of key information section at section III of IOSCO you consider superfluous as regards the disclosure of these products? Please give your reasons. | No. |
| 199. | Do you consider the level of detail set out in IOSCO disclosure standard IV.A to be inappropriate for these products? Please give your reasons. | Ad eccezione dei punti IV.A.5, 6 e 7 che possono non essere indispensabili per chi non investe nel capitale della società emittente, i primi quattro punti sono comunque utili per meglio identificare l'emittente del prodotto. |
| 200. | Which particular items of IOSCO disclosure in this section do you consider to be relevant for these products? Please give your reasons. | I punti da IV.A.1 a IV.A.4. |
| 202. | Do you consider that a general description of what the issuer's principal activities are is a more appropriate level of disclosure for these products? Please give your reasons. | Si, purchè non eccessivamente dettagliata, dato che il presupposto è che l'investimento non viene effettuato in capitale di rischio. |
| 203. | Please advise what, if any, other items of Section IV.B of IOSCO you consider to be of relevance for these products. Please give your reasons. | I punti IV.B.1 e 2. |
| 205. | Do you consider that a brief description of the issuer's group and the issuer's position within it, as set out in IOSCO reference IV.C, to be an appropriate disclosure requirement for these products? | Yes, we do. |
| 207. | Do you consider Section IV.D of IOSCO to be relevant disclosure for these products? Please give your reasons. | No, we do not (see no. 155). |
| 209. | Do you consider Section V.D of IOSCO to be relevant disclosure for these products? Please give your reasons. | No, we do not.<br>Una breve descrizione delle recenti tendenze nell'attività dell'emittente e del loro impatto sulla |

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| | | sua situazione finanziaria potrebbe essere aggiunta al "Business Overview" (IV.B) |
| 210. | Please advise what, if any, other disclosure requirements set out in Section V of IOSCO you consider to be relevant for these products. Please give your reasons. | Più che in relazione al prodotto emesso (legato ad un sottostante derivato oppure no) gli elementi da fornire nel prospetto tra quelli riportati nella Sezione V dovrebbero essere selezionati in relazione al tipo di attività dell'emittente. |
| 212. | Do you consider that the name and function of the directors of the issuing company to be the appropriate level of disclosure for these products? | See no. 190. |
| 213. | Please advise what if any other items of Section VI of IOSCO you consider to be of relevance for these products. Please give your reasons. | Le informazioni contenute nella Sezione VI possono essere fornite in misura essenziale, senza per questo pregiudicare la capacità di giudizio dell'investitore. |
| 215. | Do you consider that a statement setting out whether or not the company is directly or indirectly owned or controlled by another entity and the name of that entity to be appropriate level of disclosure for these products? | Una informazione aggiornata sulla composizione dell'azionariato e sugli assetti proprietari è corretta ed opportuna. Una informazione essenziale anche sulla natura economica dei legami tra le società del gruppo è utile anche se non indispensabile. |
| 217. | At this stage do you have views about whether the following types of financial information about the issuer are relevant and as such should be disclosed in the registration document for these products? Please give your reasons. | a), b), c), d), e), f): Yes, they are.<br>Non si ritiene comunque che queste "disclosure" debbano essere esposte in modo particolare, con riferimento al prodotto emesso/offerto, a meno che il sottostante sia costituito da azioni della società emittente. |
| 218. | For how many years should be the above disclosure be given? | For the last year compared to the previous one. |
| 219. | Do you think that there should be a disclosure requirement that the notes to the accounts be included in the registration document for these products? Please give your reasons. | No, sarebbe sufficiente fare riferimento ai bilanci dei rispettivi esercizi "incorporated by reference". |
| 220. | Please advise which (if any) of the other CESR disclosure standards set out in Sections VII.C-VII.I of the Corporate Retail Debt building block at Annex "I" you deem to be relevant disclosure for these products. Please give your reasons | VII.C : Standard of account preparation;<br>VII.D : Own versus consolidated accounts;<br>VII.F : Auditing of accounts (si ritiene sufficiente fare riferimento ai bilanci dei rispettivi esercizi "incorporated by reference");<br>VII.H : Interim financial statements;<br>VII.I : Legal and arbitration proceedings. |
| 222. | At this stage do you have views about which of the following sections of IOSCO regarding the issuer's share capital you consider to be relevant information to be disclosed in the registration document for these | X.A.1 : Amount of issued capital and…….<br>X.A.4 : Authorized but unissued capital……..<br>X.A.6 : History of share capital……… |

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| | products? Please give your reasons. | |
| 223. | At this stage do you have views about which of the following sections of IOSCO regarding the issuer's Memorandum and Articles of Association you consider to be relevant information to be disclosed in the registration document for these products? Please give you reasons. | Si ritiene sufficiente una descrizione sommaria della società (denominazione e forma giuridica, sede sociale, estremi dell'atto costitutivo, durata, legislazione e fori competenti, estremi di iscrizione nel registro delle imprese, oggetto sociale, capitale sociale ed eventuali deleghe agli amministratori per aumenti di capitale) citando per ogni altra materia lo statuto sociale "incorporated by reference". |
| 224. | In relation to Section X.C of IOSCO which sets out the Material Contracts disclosure requirements, at this stage do you have views about which material contracts for these products should be summarized in the registration document for these products? Please give your reasons. | No, we have not. |
| 225. | Do you consider Section X.D of IOSCO which sets out the Exchange Controls disclosure requirements to be relevant for these products? Please give your reasons. | No, we do not. |
| 226. | Do you consider that the information about the issuer's dividend policy as set out in Section X.F of IOSCO to be relevant for these products? Please give your reasons. | E' rilevante solo se il sottostante è costituito da azioni della società emittente. |
| 227. | In relation to Section X.H of IOSCO which sets out the Documents on display disclosure requirements, at this stage do you have views about which documents should be put on display for these products? | See above no 148, 149 e 150. |
| 228. | Do you consider that information about the issuer's subsidiaries as set out in Section X.I of IOSCO to be relevant disclosure for these products? Please give your reasons. | |
| 232. | Should all guaranteed derivative securities, irrespective of the percentage return they offer an investor, be treated in the same way, or should there be some form of minimum return that is guaranteed for these instruments in order for the product to be classifiable as a guaranteed return derivative as opposed to a non-guaranteed return | La percentuale di remunerazione garantita che farebbe la differenza tra le due categorie di strumenti "derivative" difficilmente può essere quantificata in un regolamento, poichè in funzione dell'andamento dei tassi di mercato essa potrebbe risultare in alcuni periodi scarsamente significativa ed in altri molto appetibile. Pertanto sembrerebbe più appropriato distinguere i due prodotti solo in base al fatto che garantiscano o no un minimo di |

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| | derivative? | rendimento, fermo restando che, al fine di definire le caratteristiche del "registration document", si ribadisce l'affinità di entrambi gli strumenti derivati con i "debt securities", quando il rischio non sia legato al capitale investito e quindi il sottostante non sia costituito da azioni della società emittente. |
| 233. | If you consider that a percentage benchmark should be set to distinguish between those products where the return is high and therefore additional disclosure about the issuer is justified, please specify what this percentage of return should be, and give a reason for your answer. | See above. |
| 234. | Do you consider that in addition to the percentage return on the investment, the life of the product should be taken into consideration, so that an instrument that has 100% capital guarantee return with only 6 month life cycle should be treated for disclosure purposes differently than a product with 100% capital guarantee but with a 10 year life cycle? Please give reasons for your answers. | E' chiaro che allungandosi la vita dell'investimento aumenta il rischio legato ad una performance negativa del sottostante, così come però aumentano anche le possibilità di una migliore remunerazione. Pertanto non si ritiene che le "disclosure" riferite ad uno strumento derivato breve debbano essere diverse da quelle riferite ad uno medio-lungo. |
| | **SECURITIES NOTES** | |
| 249. | Do you consider it an appropriate approach to obtain flexibility by creating specific building blocks on particular characteristics of some issuers, offers, markets and securities? | Yes, we do. |
| 250. | **Format of the Schedules** - Is the format of the three main schedules suitable? These schedules are composed of (i) common items and (ii) specific items for each type of securities, amalgamated in one single document. Is this approach sensible or should the common items and the specific items form distinct blocks? | E' preferibile che lo schema di "securities note" per ogni tipo di strumento sia unico, composto cioè sia dagli elementi comuni che da quelli specifici. |
| 251. | **Complex financial instruments –** In order to ensure adequate disclosure for securities that do not fall within just one of the three main types, do you agree that the Competent Authority should (as envisaged by Article 21(4)(a) of the | Yes, we do. |

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| | amended proposal for a Directive of the European Parliament and of the Council on the prospectus to be published when securities are offered to the public or admitted to trading and amending Directive 2001/34/EC) be able to add specific items of another schedule to the main schedule chosen, that it considers necessary having regard to the characteristics of the securities offered, as opposed to their legal form? | |
| 252. | **Section I.2 –** Should advisers be mentioned in all cases, or only if they could be held liable by an investor in relation with the information given in the prospectus? | Only if they could be held liable by an investor in relation with the information given in the prospectus. |
| 253. | **Section I.5 –** Under Section I.5, the securities note should mention any other information in the prospectus, besides the annual accounts, which have been audited or reviewed by the auditors. Should the securities note contain the "auditors report relating to this information"? | No, sarebbe sufficiente citarli come "incorporated by reference" e dichiarare la loro disponibilità, a favore del pubblico, presso la società. |
| 254. | **Sections I.6 and I.7 -** Sections I.6 and I.7 both concern the responsibility attached to drawing up a prospectus. Although under the proposed directive it is possible to choose a format consisting of three documents (Registered Document, Securities Note and Summary), these three documents are considered as making one prospectus. Is it therefore correct to assume that responsibility for each of these three parts must rest with the same persons? | In alternativa alla dichiarazione di responsabilità per ciascuna delle 3 parti del prospetto, si potrebbe indicare esplicitamente che le persone responsabili del contenuto ad es. del "registration document" lo sono anche per la "securities note" o per il "summary". In assenza di questa specifica indicazione non sarebbe corretto presumerlo. |
| 255. | **Section III.A –** Under Section III.A, all securities notes must contain a statement of capitalization and indebtedness. Is such a statement necessary for derivatives? | Non si ritiene necessaria questa "disclosure" nella "securities note" per gli strumenti di debito o per quelli derivati con sottostante non legato ad azioni della società emittente. |
| 256. | **Section III.B (III.B.1 for the derivative schedule) –** Section III.B asks to list the reasons for the offer and the use of proceeds. While this is an important item for shares and bonds, is it also the case for derivatives? | Si, perchè comunque sono strumenti attraverso i quali l'emittente raccoglie mezzi finanziari e non è quindi superfluo indicarne la destinazione. |
| 257. | **Section III.C.2.(d)** – Section III.C.2 (d) requires inclusion of a worked example of the "worst case scenario".<br>1) Does this information provide material information for investors?<br>2) Are there circumstances in which an example of the worst case scenario is not appropriate? | Un esempio di "worst case scenario" è utile ai fini di una completa comprensione del rischio da parte dell'investitore.<br>Le alternative indicate (perdita del capitale investito) sono appropriate solo con riferimento agli strumenti |

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| | 3) Would the disclosures as set out below be an appropriate alternative:<br>• a risk warning to the effect that investors may lose the value of their entire investment, and/or<br>• if the investor's liability is not limited to the value of his investment, a statement of that fact, together with a description of the circumstances in which such additional liability arises and the likely financial effects. | che prevedono il verificarsi di questa ipotesi. |
| 258. | **Section IV.A –** Under Section IV.A, the interests of experts in the issue or the offer must be disclosed. These interests encompass those of any expert or counselor who "has a material, direct or indirect economic interest in the company". Is it necessary in the case of derivatives? | Anche se questa "disclosure" ha maggiore attinenza con le offerte di azioni, è condivisibile che venga comunque data evidenza a qualsiasi forma di conflitto di interessi. |
| 259. | **Section V.A –** Section V.A lists the items to be disclosed in order to give a description of the securities that are offered or admitted to trading.<br><br>Should the following additional items be added to Section V.A:<br>a)Legislation under which securities have been created;<br>b) Court competent in the event of litigation;<br>c) Redress Service available for investors, if any.<br><br>d) Should information about the rating of the issuer or of the issues be mentioned under that item?<br><br>If yes, which one of the following wording would be more appropriate?<br>e) "Rating assigned to the issue or to the securities by rating agencies and/or commercial bank lenders pointing out the name of the rating organization whose rating is disclosed and explaining the meaning of the rating. If a rating does not exist, to the knowledge of the issuer, it is required to disclose the fact that there is no rating", or<br>f) "Rating assigned, at the issuers requests or with its co-operation, to the issue or to the securities by rating agencies and/or commercial bank lenders, pointing out the name of the rating organization whose rating is disclosed and explaining the meaning of the rating". | a) Yes.<br>b) Yes.<br>c) No.<br>d) Yes.<br>e) Yes.<br>f) No. |
| 260. | **Section V.B.12, first indent of Annex M -** Section V.B.12, first indent of Annex M requires a statement concerning the past performance of the underlying and its volatility. Is this disclosure necessary? Should | La presenza di questa "disclosure" sarebbe scarsamente significativa, perchè l'andamento storico del valore del sottostante non è |

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| | the requirement for disclosure vary depending upon whether the underlying instrument is admitted to trading on a regulated market and the nature of the market? Should the requirement for disclosure vary depending upon the nature of the underlying instrument? | necessariamente indicativo del futuro andamento del medesimo. Per uno strumento “derivative” non costituirebbe quindi garanzia di ottenimento dello stesso livello di rendimento. E’ noto che, comunque, già ora l’Autorità di Controllo nazionale (Consob) richiede questa indicazione nella redazione dei prospetti. |
| 261. | For the three main schedules, please identify those items that you deem unnecessary. | **Annex L**<br>I.1;<br>I.2 - See No. 252;<br>II.B.8;<br>III.A - See no. 255;<br>V.C.3;<br>VI.A.<br><br>**Annex M**<br>I.1;<br>I.2 - See No. 252;<br>II.B.8;<br>III.A - See no. 255;<br>V.C.3;<br>VI.A. |
| 262. | For the three main schedules, please list those items that are missing and that should be in the securities notes. | /// |
| | **INCORPORATION BY REFERENCE** | |
| 281. | Do you think that the above illustrative list is acceptable? | Yes, we do. |
| 282. | Should further technical advice be given on the documents that can be incorporated by reference in the prospectus? In the case of an affirmative answer please indicate which technical advice should be given. | No. |
| 289. | Should other aspects concerning the accessibility of the documents incorporated by reference be considered? | *Please see response to the same question in the equity document.* |
| 290. | Should CESR give other technical advice on further aspects of incorporation by reference? In the case of an affirmative answer please indicate which technical advice should be given. | No. |
| | **AVAILABILITY OF THE PROSPECTUS** | |

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| 307. | Should there be technical implementing measures at Level 2 further defining what is deemed to be “easy access” and which specific file formats are accepted for this purpose? | No. |
| 314. | Are there any additional factors and/or requirements that should be taken into account at Level 2 concerning the availability via the press? | *Please see response to the same question in the equity document.* |
| 325. | Do you consider appropriate the requirement to publish the said notice in the absence of a specific provision in the Directive proposal? | Si, ma solo quando non comporta un aggravio di incombenze a carico degli emittenti abituali, come ad esempio le banche, le cui emissioni aventi caratteristiche di continuità e destinate prevalentemente o quasi esclusivamente alla propria clientela, non necessiterebbero di ulteriori adempimenti pubblicitari. |
| 326. | Should the minimum content of the notice be determined at Level 2 legislation? | Si, nei casi in cui sia ritenuto opportuno pubblicare l’avviso. |
| 327. | When the prospectus is made available by its insertion in one or more newspapers or in the form of a brochure, besides the publication of a specific notice, should the list available at the web-site of the competent authority (see Introduction) mention where the prospectus is available? | Si, sarebbe opportuno. |
| 328. | In case of an affirmative answer to the previous question, should the indication in the website of the competent authority be considered enough and, consequently, should it be considered as an alternative to the publication of a formal notice by the issuer/offeror? | Yes, it should be. |
| 331. | Which other issues regarding the availability of the prospectus in the form of a brochure should be covered by CESR’s technical advice? | /// |
| 334. | Do you agree that the issuer should not ask the investor the payment of the deliver or mail costs? | E’ giusto che l’investitore non sia gravato dalle spese per la consegna del prospetto, sia che essa avvenga presso gli uffici (sportelli) dell’emittente o dell’offerente, sia tramite scarico dal sito internet.<br>E’ altresì opportuno che non si prevedano costi per spese postali a carico dell’emittente o dell’offerente, perchè questo potrebbe indicare che l’investitore può richiedere copia del prospetto per via postale. |
| 335. | Should additional issues regarding the delivery of a paper copy of the prospectus be dealt with by Level 2 legislation? | No. |

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