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For the attention of M. Fabrice Demarigny

Dear Mr Demarigny

Please find below my response to the consultation on filing and storing of regulated information under the Transparency Directive.

Yours sincerely

Chris J Pickles

Q1. End-users of the information that is made available by OAMs will include investors. However, OAMs will be only one element of a "value chain". The reason that such a value chain exists is because different components of that chain provide added value that the OAM cannot – added value that is of advantage to the investor. Though some of the direct users of OAM services will be private investors, other direct users will include investment banks, brokers, institutional investors, market data providers, custodians, central securities depositories, etc. CESR needs to consider the requirements not only of the OAMs' direct users but also the requirements of the end-users that are not directly connected to the OAMs and the requirements of the third-parties that give end-users access to the OAMs' data. It is clearly beneficial that CESR envisages a system of storage that is easy to use, affordable and not unnecessarily complex or technical. However, the specification of such a system must be adequately detailed, as lack of adequate detail is more likely to increase the costs of maintaining and accessing it. In addition, a system that is not adequately specified can lock out other elements of the value chain from providing the added value that investors need and yet that the OAMs cannot provide. This in turn can lead to total systems having to be re-developed in order to correct the flaws and insufficiencies created by the original lack of an adequately detailed specification. This would clearly be to the overall disadvantage of investors.

Q2. It would appear that an OAM acts as a service provider to an issuer, to assist the issuer in complying with the conditions of the Transparency Directive. On that basis, it appears reasonable that the OAM should, as a minimum, store and allow access to the regulated information as produced and disseminated by the issuer. This should not preclude the OAM from providing additional services to the issuer or to its other users on a commercial basis.

Q3. CESR's consideration of "easy access" down to the level of the private investor is to be welcomed. However, as well as considering the needs of the retail investor, whose direct use of an OAM's services might be only occasional and low-volume, CESR must also consider the needs of the major financial institutions and data consolidators that are likely to be permanent and very high volume users of an OAM's services. The OAMs may face a pareto situation, where 80% of their direct users are retail investors that account for 20% of all data requests, while 20% of their direct users are financial and commercial institutions that account for 80% of all data requests. Access to an OAM via a single personal computer over the public Internet might be an ideal way for a retail investor to gather information and might be considered as "easy access", but such a limited design might act as a serious bottleneck and hindrance for major institutions that might require streams of automated information rather than simple responses to single manual enquiries.

Faster and more automated mechanisms would be needed in order to be described as providing "easy access" for major institutional users. As an example, providing access to an OAM only via the public Internet may be restrictive and may not meet the criteria of speed, reliability and responsiveness of major institutional users. Instead, providing access via networks that use the Internet Protocol may be a more appropriate solution. The recent industry consultation into the recommendations of the Giovannini Group has resulted in the recommendation that the use of the Internet Protocol, and not the public Internet alone, should be a standard for post-trade servicing of equity assets. This would allow for choice on the part of the OAMs' users. Higher qualities and volumes of service needed by major institutions could be delivered using normal commercial scaling of OAMs' pricing models.

It would appear to be a basic function of an OAM to provide access to regulatory information provided to the OAM in the language or languages in which such information is supplied to the OAM. Provision of regulatory information in any additional languages should be considered as "optional added value".

Q4. The preference of Member States for a network model of OAMs is to be welcomed. Information about domestic issuers is the responsibility of the domestic market regulator, and this information can most likely be managed and supervised in a better manner and more cost-effectively on a local basis. This "distributed computing" approach has been used successfully in the commercial domain for over 30 years, and it is also one of the keystones of the global success of the public Internet.

The "network" itself would not offer services and search capabilities. In technical terms, these would in fact be provided by application services operated by each of the OAMs individually. The network would allow the OAMs' users to connect to one or more OAMs to make use of the application services provided by the OAMs. These application services would in turn give access to the information stored by OAMs.

As well as providing a "search" capability, OAMs may wish to consider providing a "broadcast" facility that would broadcast to its users the fact that updated information had been received. Rather than each user always having to search in case any updates have been delivered to the OAM, the OAM advises its users when updates have arrived. This can be an important consideration in terms of the general design of an OAM's systems, and can be particularly relevant in situations where an

OAM has to deal with a heavy volume of search requests, eg around the time of major announcements by blue-chip issuers.

Considering the desired "one-stop shop" approach, whereby an investor could access all information about all issuers by connecting only to a single OAM, the element of the network that interlinks the OAMs is likely to need a considerable throughput capacity. For example, for EU Member States with larger populations and investor communities (eg France, Germany, Italy and the UK), one must consider that all enquiries from all of a Member State's investor community concerning all issuers across the EU might be channelled through a single local OAM. To ensure that the network between the OAMs does not act as a bottleneck, it is important that the OAMs develop a clear model of the message traffic that they expect to handle so as to plan for an appropriate network infrastructure to interconnect the OAMs. Though the public Internet may be one appropriate network infrastructure for providing access from investors to OAMs, it may not be an appropriate infrastructure for handling high data volumes on a reliable and responsive basis between OAMs. The costs of the infrastructure needed for interlinking OAMs could be recovered in a similar way, whether such infrastructure was based on the public Internet or on other network options.

Q5. There are many features of the Transparency Directives requirements, and of the concept of OAMs that lend themselves ideally to a networked OAM solution, eg:

- local OAMs are likely to provide better service to local investors and customers than a single centralised OAM
- local OAMS are more likely to be able to deal with local investors and customers in their own language
- a networked solution reflects the "networked" nature of the European Union – a network of independent Member States working together in cooperation.

Q6. It would be a great advantage to issuers and to retail investors to be able to access OAMs via the public Internet. However, as mentioned above, access should not be limited to the public Internet alone, but to networks that use the Internet Protocol, thereby allowing users to choose from a range of network solutions to meet their differing needs.

Electronic filing should be a basic principle of the OAM structure. Email, electronic file transfer and electronic messaging have become so commonplace at all levels of private and commercial life that it would be a great pity for CESR to set so low a target as paper and/or fax communications. The financial services industry has been struggling for years to move away from paper-based communications and to achieve higher levels of automated, straight-through processing. As the OAMs will be servicing publicly-quoted issuers, which one would expect would today be using email, electronic file transfer and electronic messaging as a fundamental part of their day-to-day business operations, it would not seem unreasonable for CESR and the OAMs to insist on electronic filing from all issuers.

All information should be stored in electronic format, as otherwise the principle of electronic access across the whole of the EU would be destroyed.

Q7. The structuring of regulatory information delivered to OAMs and made available from OAMs is probably one of the most important factors that will decide whether the implementation of the Transparency Directive meets the goals that were intended.

The proposal is that several format standards should be allowed for. No justification is given as to why prescribing a format would be "overburdening" for the filers. It would seem to be more appropriate for CESR to be supporting and promoting the use of a common standard for issuers and OAMs in order to increase the overall efficiency and transparency of the market, rather than promoting the concept that regulators should be allowed to adopt an unspecified number of "standards". Though an individual OAM might only adopt one format standard for its own domestic data, in order to provide a "one-stop shop" solution to domestic investors it would have to be able to manage and communicate using all of the different "standards" used by all of the OAMs across the EU. Individual investors who download information from an OAM would have to be able to deal with all of the different formats that the OAMs might allow. By allowing the use of an unlimited number of format standards CESR will be causing the complexity and cost of the OAM network solution to escalate considerably.

As the OAM-based solution is primarily about optimal information availability, the structuring and standardisation of information formats must be fundamental and critical to the successful implementation of the Transparency Directive.

Data formats and file formats should at all times be based on open and non-proprietary standards.

Q8. Where information delivered by an issuer to an OAM needs to be corrected, either because it is found to be incomplete or misleading or because it was erroneously sent to the storage mechanism, it should be the responsibility of the issuer to make this changes to its filing. Though an OAM may be able to inform the issuer of the need for such changes as part of the service that the OAM provides to the issuer, the legal and regulatory responsibility for making any changes to a filing should belong to the issuer. OAMs should not be expected to make changes on behalf of issuers.

Q9. Regarding the period of availability of OAMs' services and the provision of adequate back-up facilities, it would seem that similar consideration should be given by OAMs to these issues as is expected from investment firms under Article 13 of the Markets in Financial Instruments Directive.

Q10. No special or additional security standards should be required for an OAM networked solution.

Q11. If all OAMs are to operate on a 24/7 basis, and if information sources are to be verified by human involvement at the OAMs, this would imply a 24/7 staffing of these operations by all OAMs. This would add considerably to the cost of the solution for all Member States. It presents a further strong argument as to why all filing should be electronic and information sources should be verifiable electronically.

The solution must provide certainty that information has been received from an authentic source. It must provide non-repudiatable confirmation of message receipt for both the issuer and the OAM, as only in this way can both parties be assured of compliance with the Directive. Non-repudiation must also apply to the content of the filings, ie the solution must provide for confirmation by the issuer that what is stored in the OAM system is the information that was actually sent by the issuer. This is particularly the case when using the public Internet for communicating between issuers and OAMs.

In order to identify and validate information sources, as well as the OAMs, CESR should give consideration to work already been done within the financial services industry in this area. This is also directly relevant to the Markets in Financial Instruments Directive and the need for a means that can be used by all parties in order to identify a business entity unambiguously. This will also help in other areas of a networked OAM solution, eg allowing investors across the EU to identify unambiguously the issuer that they require information about, irrespective of which OAM may be storing such information. Considerable work has already been done in this area by the Reference Data User Group (which has now become part of ISITC Europe), by the MiFID Joint Working Group, by TWIST (the Transaction Workflow Innovation Standards Team) and by the International Organisation for Standardisation (ISO).

Q12. The process for time-stamping of filings appears to be appropriate.

Q13. CESR should give consideration to the time basis used by OAMs for time-stamping filings. There are three time zones within the current EU. With a networked OAM solution, investors from across the EU in any of these time zones may be accessing an OAM not only in the Member State in which they are themselves located but also OAMs in other Member States that are in other time zones. OAMs should use a common basis for calculating the timestamp of filings to avoid the inaccuracies that would result if they each use a different basis for their timestamps. As part of the timestamp that it applies to a filing, each OAM should indicate the relevant time zone based on UTC (Coordinated Universal Time) as part of that timestamp, eg UTC, UTC+1, UTC+2. Timestamps should at least store the time zone, date, hour, minute, second and millisecond of the filing, to align with similar standards now being used across the financial services industry for other data.

Q14. Different minimum standards would not appear to be necessary.

Q15. It is assumed that the "language of international finance" is one of the local languages used within at least one of the EU Member States. It is also assumed that each of OAMs will provide search capabilities in the local language(s) of the OAM. The networked OAM solution that has been proposed would therefore allow investors across the EU to access search facilities in the language of their choice by using the OAM that applies that language to its search engine. As the language of international finance is the language of at least one EU Member State, at least one OAM would be offering search facilities in a local language that is the language of international finance. Investors that specifically want to search using the language of international finance could then use the services of the OAM(s) making search capabilities available in that language. It would then be a commercial and competitive issue for OAMs as to which languages in addition to the local language(s) they offer search capabilities in.

Q16. The methods that OAMs allow issuers to use to access the OAMs' systems should be designed to allow automated straight-through processing. Terms such as "email", "internet-based system", "secure web servers" and "file transfer protocol" are in themselves very unclear and non-defining and allow for unformatted and non-standardised systems. As mentioned earlier, the application of standards that are open and non-proprietary and the requirement for a detailed technical specification are critical to the success of a networked OAM solution. OAMs must provide access to issuers in a manner that provides the most cost-effective solution for investors and issuers, and their structures must reflect this requirement.

Manual processing by OAMs should not be part of the proposed solution. All filing should be required to be in an electronic, structured and standardised form.

The time between receipt and publication of regulated information should be clearly defined for OAMs. Rather than this timeframe being dependent on the structures in place in the OAM, the requirement for a defined timeframe should in itself define the structures that OAMs need to implement. These timeframes should be standardised across all OAMs. Investors across the EU should be able to expect transparency about these timeframes, as well as common standards of service across all OAMs.

OAM systems should be accessible over the public Internet in order to provide low-cost access to investors across the EU. However, using the public Internet may be considered inappropriate for some users, eg major institutions, on the basis of reliability, responsiveness and speed as well as for security reasons. OAMs should not allow access to their systems exclusively via the public Internet, but should also allow access to their systems via other network solutions. Such additional access options should not be at the cost of the OAM, but at the cost of the institutions that require access other than via the public Internet.

The level of user support that each OAM provides should not be left totally to the discretion of each OAM. Minimum levels of support to be provided by all OAMs should be specified. Such a specification should also take into account other service factors, including elements such as notification of planned changes, notification of service interruption, notification of fault correction, etc. Issues relating to the service levels provided by information sources, similar to OAMs, have been addressed for a number of years by the Financial Information Services Division of the Software and Information Industry Association (SIIA/FISD), which has documented recommendations and proposed minimum industry standards for such service levels. As part of the process of specifying common standards for minimum levels of service to be provided by OAMs, it would be beneficial for CESR to ask for input from SIIA/FISD.

Specifying common standards for minimum levels of service should ensure that investors are provided with at least adequate levels of service by OAMs. They should also help to create a benchmark for the comparison of different OAMs, which in itself would allow regulators to control and monitor the quality of service provided by OAMs. Transparency in this area should also help to promote competition between OAMs on the basis of service and cost.

Q17. Defining a standard format for issuers to use when filing information would reduce or remove the necessity for OAMs to convert the data themselves. This should help to reduce processing effort, cost and delay in publication. All filings by issuers should be made electronically using a single, standardised set of data formats.

Identifying an issuer by name is more complex in practice than it may appear, not only as a result of many issuers being known colloquially by a variety of names, but also due to local language differences. Using a standardised form of identifier would be much more appropriate. Only with a standardised means of identifying an issuer will CESR be able to meet the goal of enabling a user to easily identify the existence of regulated information about that issuer.

Issues relating to time and date stamps have been discussed above in response to Q13.

Q18. The proposals appear reasonable.

Q19. CESR's preferred approach on how to reach interoperability appears to be highly practical.

In terms of possible network models, Model B appears to be the most appropriate, taking into account not only the technological issues but also the commercial and political issues involved.
However, if an element of Model C were added to Model B, it would enhance Model B. Rather than the "central server" approach of Model C, each OAM should carry a complete list of issuers and the links to each OAM holding information on that issuer. Investors could use that list to access the OAMs that store information related to the selected issuer. The number of new issuers across the EU has not been growing dramatically, and it should therefore not be a significant burden on OAMs to maintain a common list of all issuers on an ongoing basis that they share between them.

In the design of the solution, CESR should consider that larger institutions may not wish to make enquiries using keyboards and personal computers, but may wish to drive these enquiries from their own applications. As well as offering a graphical user interface (GUI) for human users, the solution should also offer an application programming interface (API) to allow the user's own applications to carry out the enquiry.

Reference data concerning an issuer should be made visible/available to the user in the response to an enquiry, as this will help the user to identify an issuer more quickly if the user wishes to do so at a future data. The issuer should be able to enquire into an issuer not only by using the issuer's name but alternatively by using the unique reference data identifier for that issuer.

Taking into account not only language differences but also differences of alphabet across the EU, as well as the number of different keyboard character/alphabet layouts used in different EU Member States, allowing users to make enquiries by using unique issuer identifiers could be of benefit to both the users and the OAMs.

Rather than creating a new list of issuer identifiers as an independent initiative, regulators and OAMs should consider the work already being done by other bodies in this area in addressing the issue of entity identifiers and identification (as mentioned above in the response to Q11).

CESR could play an invaluable role by acting as a catalyst for joint development and/or joint funding of development by OAMs, thereby helping them to bring down the potential costs of the new solution to investors and to issuers.

With respect to the funding and charging models that OAMs may use, it would seem consistent with other Directives, such as the Markets in Financial Instruments Directive, if OAMs' services were required to be made available "on a reasonable commercial basis". Industry participants could then have similar expectations of fair and non-discriminatory charging.

Q20. CESR's recommended approach appears to be reasonable.

Q21. As the EU wishes to develop a single market for financial services, it would appear inappropriate that CESR should insist that an OAM should be in any specific Member State. As "passport" solutions have been found for regulating investment firms, it would seam reasonable that this should also be possible for regulating OAMs.

Q22. Competent authorities should be able to set minimum standards for OAMs to meet, in terms of service and in terms of their adoption of technology and open standards.

Q23. CESR would appear to be the logical body for coordinating cooperation between regulators.

Q24. CESR's interpretation appears to be appropriate.

Q25. Applying the same exact definitions used in Article 2 (1) (1), modern digital telephones and digital cellular telephones would also count as "electronic means". One would expect that it would be totally reasonable for CESR to prohibit filing by telephone, and it would therefore seem equally reasonable for CESR to prohibit filing by fax. The financial industry has been struggling to move away from old technology such as telex since the early 1970s, and is now trying to move away from fax as old technology for data communication. As the public Internet has been available for general and commercial use since 1993, CESR could not be accused of running ahead of the market by insisting on the use of more modern technology than the fax.

CESR should insist on filing using pre-defined open standards for data formats and data communications that allow for fully automated, straight-through processing. No advantage to issuers, investors, regulators or OAMs would seem to be gained by taking any other more lenient approach.

Q26. The costs associated with allowing filing by any means other than electronic means are likely to be much higher than opting for a regime that allows electronic filing only. Unless CESR adopts option a) (electronic filing as the sole method of filing) as the basis for this new solution, the whole of the EU will be faced with dealing with a more-expensive hybrid solution indefinitely. Once a hybrid solution has been implemented, it will be much harder to close down the non-electronic capabilities in the foreseeable future.

Q27. The recommendations appear to be appropriate.

Q28. Additional details would appear not to be necessary at this stage. The electronic filing mechanism should be subject to the same standards as OAMs.

Q29. The recommendations appear to be appropriate. CESR is recommended to consider issues related to time-stamping as discussed above in response to Q13.

Q30 / 31. CESR should require specific data formats and standards to be applied by filers if it is to achieve a level of automation that will make filing a cost-efficient process. Lack of automation of the filing process will increase the complexity and cost of the enquiry solutions offered to investors. One would expect that there will be many more enquirers than filers, and therefore it is even more important to have as automated and cost-effective a filing mechanism as possible.

CESR and national regulators should be leading the way and setting an example in the adoption of standards that improve the levels of straight-through processing within the financial services industry. Neither CESR nor the national regulators should be opting out of this role.

Q32 / 33. The concepts of alignment presented by CESR appear to be reasonable.

Q34. The text is not clear, and it would therefore seem appropriate for CESR to expand on this idea and achieve clarity in order to properly address the mandate.