

Response to

CESR'S CONSULTATION PAPER:

**“CESR's recommendations for the consistent implementation
of the European Commission's Regulation on Prospectuses n°809/2004”**

(Ref: CESR / 04 – 225b)

CESR is inviting all interested parties to comment on the recommendations for the implementation of Regulation n°809/2004: the purpose of such guidelines would be to help issuers and their advisers as regards the extent of the information to be supplied and to ensure consistency across Europe in the way in which the Regulation is implemented.

The areas covered by the Consultation Paper concern financial information issues and non financial information issues (specialist issuers, clarification of items, issues not related to schedules).

Being thankful for the opportunity to comment on CESR's recommendations, we focus hereafter on the issues that from our point of view require a special attention.

✍ Historical financial information

Pro forma financial information

Q98: As regards the indicators of size, we think that they should be chosen in order to represent the company's main value drivers, and not only standard accounting figures.

The methods commonly used by the financial community for the valuation of a company belonging to the industrial sector are the Discounted Cash Flows and Market Multiples (in particular EV/EBITDA and P/E) methods. For their application, the value drivers that are to be considered are: Sales, EBITDA, Net Asset Value, Net Earning. We suggest to use them as indicators of size, in order to assess the significant gross change.

Q99: Referring to the question of the appropriate definitions of indicators of size, we think that, even if some of them are not IAS/IFRS figures (in particular the EBITDA indicator), it can be specified within the recommendations that the method to be used to calculate them has to follow IAS/IFRS criteria.

Finally, we would like to focus on an issue, which was not examined in the Consultation Paper and refers to the audit of the financial statements that provide the basis for the pro forma documents.

We refer to the historical data included in the pro forma financial information, that is the historical financial information of both the issuer and the acquired business/entities. Annex A Item 20.1 requires that the issuer's historical financial

information has to be audited, but no mention is made about the audit of the historical financial information of the acquired business/entities. This clearly represents a risk for investors and we therefore think that, if such data are not audited, the fact should be specifically outlined in the “Risk factors” section. We would also suggest that the financial information that provide the basis for the pro forma should be audited to a preponderant extent.

Complex financial histories

As regards this specific case (not explicitly examined in the Consultation Paper, but mentioned at page 85) - which occurs when the issuer has not been required historically to prepare statutory financial statements presenting the totality of its operations, either because it is a new holding company or it has been part of a larger consolidated group – we think that the approach of requiring 3 years of historical financial information on the combined group on consolidated basis should be followed.

From our point of view, such information should not be referred to the issuer *strictu sensu*, but to the “business perimeter” of the issuer as determined at the moment of the applying for the admission to listing and/or the public offer: this approach may be the only one complying with the principles stated by article 5 of the Prospectus Directive.

Following this approach, the issuer should supply the aggregate historical financial information related to all the relevant business/entities included in the perimeter of the group. Such information, due to technical accounting reasons, may be presented in different forms depending on the different cases, as for example the case of a business that has been or is being separated out from a larger group either at the time of demerger and separate listing or on acquisition by another listed group (so-called “carve out”), or the case of the acquisition of business/entities.

We think that the Competent Authority should determine case by case the “form” of information that the issuer has to supply, in order to give a correct picture of the situation of the group in the periods being reported on.

As regards in particular the case of the acquisition of business/entities, we think that the issuer should supply pro forma financial information for the most recently completed financial period (T-1), while for the two preceding years (T-2, T-3) financial statements of the relevant acquired business/entities should be provided for; specifically we suggest using the approach followed by the present USA regulations on the matter.

✎ Non financial information Items

We would like to underline a specific issue, which was not examined in the Consultation Paper and refers to Items 6.1 (Principal Activities) and 6.2 (Principal Markets) of the Share Registration Document.

It should explicitly be clarified that the information to be supplied has to cover at least the following aspects:

- issuer’s strategy
- issuer’s competitive position
- total value of the market where the issuer competes
- minimum information on the main competitors of the issuer

- market structure: distribution channels used by the issuer, type and concentration of clients (retail, corporate...), type and price trend of raw materials

Such information is to be considered essential for investors in order to allow them to assess their investment in the issuer's shares, especially if we consider that the share price mainly depends on the issuer's perspective growth and value-creation potential. For this reason, for example, the disclosure of the issuer's strategy in qualitative terms within the prospectus is to be considered "sensitive" information for investors.

Milan, October 18th, 2004