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Committee of European Securities
Regulators (CESR)
11-13, Avenue de Friedland
75008 Paris

Paris, 31st May 2010

AFG RESPONSE TO CESR'S CONSULTATION ON CESR TECHNICAL ADVICE TO THE EUROPEAN COMMISSION IN THE CONTEXT OF THE MIFID REVIEW - EQUITY MARKETS

Ref.: CESR/10-394

The Association Française de la Gestion financière (AFG)¹ welcomes CESR's consultation on secondary markets in the context of the MiFID review.

We want to thank CESR for having submitted widely this consultation paper so as to gather all points of view, including the investors' point of view through an asset management association like ours.

First, we would like to express our regret that the time allocated to such an issue is too short and therefore does not permit respondents to explore at full extent implications of the proposed changes.

As our UK colleagues at IMA, AFG would encourage CESR, and thereafter the Commission, to listen carefully to the views of investors, issuers and entrepreneurs. If a balance has to be struck, then the interests of those for whom trading is essentially a cost of doing business

¹ The Association Française de la Gestion financière (AFG)¹ represents the France-based investment management industry, both for collective and discretionary individual portfolio managements.

Our members include 411 management companies. They are entrepreneurial or belong to French or foreign banking or insurance groups.

AFG members are managing 2600 billion euros in the field of investment management, making in particular the French industry the leader in Europe in terms of financial management location for collective investments (with nearly 1600 billion euros managed from France, i.e. 23% of all EU investment funds assets under management), wherever the funds are domiciled in the EU, and second at worldwide level after the US. In the field of collective investment, our industry includes – beside UCITS – the employee savings schemes and products such as regulated hedge funds/funds of hedge funds as well as a significant part of private equity funds and real estate funds. AFG is of course an active member of the European Fund and Asset Management Association (EFAMA) and of the European Federation for Retirement Provision (EFRP). AFG is also an active member of the International Investment Funds Association (IIFA).

should be placed ahead of those for whom it is a source of profit. In this way investors connected with the long-term savings pools and the real economy will be assured that revisions to MiFID will operate to serve their needs and so promote confidence in the European markets.

Please see our general comments assembled by section below:

PRE-TRADE TRANSPARENCY

- AFG supports CESR's generic approach as pre-trade transparency is a key element of a sound equity market. Any exception to this principle must then be argued for on a case-by-case basis.
- Our members are in favour of moving to a rule-based approach as setting clear and precise rules would provide a higher degree of legal certainty and simplicity of treatment. Also, before regulators decide on amendments on specific points, we urge them to consider also the global picture in full so as to have a consistent and workable global framework.
- Market participants argue that algorithm trading and high frequency trading explain in great part the reduction in size of the average trade. Therefore, the observed trend in trade size is not necessarily correlated to the actual order size. If currently there is little evidence to support the need to change current calibrations for large in scale orders, our members find it relevant to review them periodically following variations in market liquidity.
- SI regime: this is clearly a part of the MiFID framework where AFG members believe more transparency is required. In particular, where orders received by the investment bank are of discretionary type, investors would appreciate being able to distinguish between orders executed against the bank's own book and orders executed in its dark pool. Also, in order to gain in transparency and without any intention of altering the ability of brokers to offer OTC prices, we believe all SIs' trading should be identified post-trade (although on an aggregate basis).

POST-TRADE INFORMATION

- It seems to us as generally agreed that Post-trade information is definitely a part of the framework in need of significant improvement. AFG members, who need fair valuation of their assets, fully approve the multi-pronged approach proposed by CESR and the setting up of a joint CESR/Industry Working Group. There is a need for defining more clearly roles and responsibilities of financial markets participants and in this respect, our members would like a refined distinction to be made between price makers (liquidity providers) and price takers (willing to pay for liquidity).
- AFG members agree with CESR's proposals about real-time publication of post-trade transparency information and urge regulators to specify that deliberate technically-unjustified delaying of publication is not a compliant behaviour as it may create asymmetry of information.
- Shortening delays for publication of trades that are large in scale may improve post trade transparency market-wide, but in the meantime would lead to increased costs for those trades.

CONSOLIDATION OF TRANSPARENCY INFORMATION

- AFG members express the need to address the reduced clarity around post trade information resulting post MiFID implementation and urge CESR to set standards in order to facilitate consolidation of transparency information. Indeed, there should be a level playing field for post-trade reporting among all market participants (RMs, MTFs and OTC) so as to obtain a consistent consolidated view of the market's liquidity.
- AFG members' encourage CESR to deal with the quality of post trade information as this is a key element in a fragmented market. Also, the setting up of a Mandatory Consolidated Tape supervised by ESMA would permit, in our members' view, to have a common and reliable data base for post-trading data.

REGULATORY BOUNDARIES AND REQUIREMENTS

- AFG members advocate the idea that unlevel playing field across RMs and MTFs should be addressed. With potentially the exception of some junior markets, there is no valid reason to a differentiated treatment.
- AFG members welcome CESR's proposals related to bringing brokers crossing networks within MiFID framework and capturing their post-trade data so as to gather a global, consolidated and meaningful view of the market.

If you need any further information, please don't hesitate to contact myself at +33 1 44 94 94 29 (p.bollon@afg.asso.fr) or Eric Pagniez, at +33 1 44 94 94 06 (e.pagniez@afg.asso.fr) or Adina Gurau Audibert, at +33 1 44 94 94 31 (a.gurau.audibert@afg.asso.fr).

Sincerely Yours,
(signed)
Pierre Bollon