

Headlines

• **European Commission:** **Communication on Financial Supervision and FAQs**

Following the De Larosière Group Recommendations published in February 2009, the European Commission has adopted on 27 May 2009 a Communication on Financial Supervision in Europe. The proposal includes the creation of a European Systemic Risk Council (ESRC) which should monitor and assess risks to the stability of the financial system as a whole ("macro-prudential supervision"). The ESRC will provide early warning of systemic risks that may be building up and, where necessary, recommendations for action to deal with these risks.

Furthermore, the proposal aims to set up a European System of Financial Supervisors (ESFS) for the supervision of individual financial institutions ("micro-prudential supervision"), consisting of a network of national financial supervisors working in tandem with new European Supervisory Authorities, created by the transformation of existing Committees for the banking securities and insurance and occupational pensions sectors.

Legislation to implement the proposals is expected to be brought forward in the early autumn. The Commission invites all interested parties to submit their reactions on the Communication before 15 July 2009, please [click here](#) for the Commission paper.

To further clarify the new financial supervisory framework, the Commission also published a document including Frequently Asked Questions, please [click here](#) for the FAQ document.

• **CESR's final report on compliance of EU based CRAs with the 2008 IOSCO code of conduct**

CESR has been asked to report to the European Commission and the Economic and Financial Committee of the EU on the progress made by EU based Credit Rating Agencies (CRAs) towards compliance with the revised International Organisation of Securities Commission's code of conduct for CRAs.

Please [click here](#) for the IOSCO code of conduct published in May 2008.

Headlines (cont.)

CESR has also been asked to report any significant developments or risks that it identifies from this work which might have an impact on rating activity in the EU.

Against this background, CESR has now delivered its final report which contains analysis of the compliance of a wide range of EU based CRAs codes of conduct, including the three largest CRAs (Standard & Poor's, Fitch Ratings and Moody's Investor Service) covered in the interim report, with the updated IOSCO code.

CESR's overall conclusion with respect to the codes of conduct of the larger CRAs is that they are broadly compliant with the IOSCO code. As regards the other EU CRAs, CESR has identified that about a third have not adopted any code of conduct and strongly recommends that these CRAs consider implementing the IOSCO code as a matter of priority. Please [click here](#) for CESR's final report of May 2009.

• CESR consultation on technical issues relating to Key Information Document (KID) disclosures for UCITS

Considering that the concept of the Simplified Prospectus, which was introduced by the UCITS Management Directive (2001/107/EC) in 2002, is widely seen as having failed to achieve its objective, the European Commission suggested replacing it by a "key investor information" (KII) document, which contains fair, clear and not misleading information.

Following European Commission's request of April 2007, CESR published on 16 March 2009 a call for evidence on technical issues relating to Key Information Document (KID) disclosures for UCITS.

ALFI submitted its response to this consultation on 15 May 2009. The answers are divided into the following three chapters:

- risk and reward disclosure;
- past performance;
- charges.

Please [click here](#) for the document.

The ALFI position paper is considered to be a continuation of ALFI's response to consultation CESR/07-6691 and therefore CESR is invited to consider the two responses

as a coherent opinion.

Please [click here](#) for the document.

The UCITS IV Directive imposes a strict deadline for adoption of certain so called level 2 measures (1 July 2010). CESR has been asked to deliver its advice on these issues by 30 October 2009.

Headlines (cont.)

• CESR consultation on MiFID complex and non-complex financial instruments

On 14 May 2009, CESR published its consultation paper on MiFID complex and non-complex financial instruments for the purposes of the Directive's appropriateness requirements. The Markets in Financial Instruments Directive includes conduct of business requirements applying to a range of investment services.

Essentially, MiFID lays down three sets of requirements in this area:

- (1) the suitability requirements set out in Art. 19(4) of the MiFID Level 1 Directive and Articles 35 and 37 of the MiFID Level 2 Directive (the 'suitability test');
- (2) the appropriateness requirements set out in Art. 19(5) of the MiFID Level 1 Directive and Articles 36 and 37 of the MiFID Level 2 Directive (the 'appropriateness test');
- (3) and – as an exception to the appropriateness test – the requirements set out in Art. 19(6) of the MiFID Level 1 Directive and Art. 38 of the MiFID Level 2 Directive.

The consultation paper is concerned with the way in which the requirements described at (2) and (3) apply to particular types of MiFID financial instruments, namely according to whether the instrument/product is deemed as complex or non-complex.

The paper considers the scope of MiFID as it currently stands, in terms of the range of financial instruments covered by the Directive. It does not consider any possible future extension of the scope of application of MiFID standards (for example, as a result of any proposals from the European Commission).

Please [click here](#) for the consultation paper. Contributions can be submitted online via CESR's website (www.cesr.eu, under the heading 'Consultations') by 17 July 2009.

• Transparency Directive: FAQs

The members of CESR agreed on a common position in terms of frequently asked questions regarding the Transparency Directive (2004/109/EC).

The Transparency Directive and the related Commission's Level 2 Directive (2007/14/EC) create a common basis for periodic information, major shareholding notifications and dissemination and storage of regulated information.

Headlines (cont.)

The 'Q and A' publication (Level 3 work) is intended to provide market participants with responses in a quick and efficient manner, as it is essential that supervisors achieve convergence across the EU in their approach to handling the day-to-day implementation of the two directives.

The submitted paper was published on 19 May 2009 on CESR's website.

Please [click here](#) for the document, which will be updated regularly.

- **Commission proposes better investor protection measures for packaged retail investment products**

The European Commission has committed to delivering improvements to investor protection measures for the main investment products bought by retail investors. Inconsistencies in existing standards can be detrimental to investors and can lead to competitive distortions in the retail investment market.

The Commission's conclusions, set out in the Communication on Packaged Retail Investment Products, are that product information requirements and rules on product sales need to be improved and made more coherent. The Communication outlines proposals for a new, horizontal legislative approach, drawing on the best of existing requirements and applying these to all relevant products. The Commission will now begin work on the detailed legislative proposals required for this new approach, and will provide an orientation on the work by the end of 2009.

Please [click here](#) for the press release and [here](#) for further information.

- **EU directive proposal on regulation of AIFM**

On 29 April 2009 the European Commission has published a directive proposal on alternative investment fund managers ("AIFM"). The draft directive aims to create a comprehensive and effective regulatory and supervisory framework for managers and administrators of alternative investment funds ("AIF") in the European Union. The directive shall cover all types of funds not regulated under the UCITS Directive – including hedge funds, private equity funds, real estate funds, infrastructure funds and commodity funds.

Please [click here](#) for more information and [here](#) for the directive proposal.

- **Financial services sector pay: Commission sets out principles on remuneration of risk-taking staff in financial institutions**

The European Commission has adopted a Recommendation on remuneration in the financial services sector. It recommends that Member States should ensure that financial institutions have remuneration policies for risk-taking staff that are consistent with and promote sound and effective risk management.

The Recommendation sets out guidelines on the structure of pay, on the process of design and implementation of remuneration policies and on the role of supervisory authorities in the review of remuneration policies of financial institutions. The Commission has also adopted a Recommendation on directors' pay.

- **CSSF Press Release : The Madoff Case**

On 25 February 2009 the Commission de Surveillance du Secteur Financier (the "CSSF") ordered UBS (Luxembourg) SA ("UBSL") to implement, within a period of three months, the necessary infrastructure, i.e. sufficient human and technical means and the necessary internal rules in order to fulfill all the tasks relating to its function of depositary bank of a Luxembourg UCI in accordance with the Law of 20 December 2002 on undertakings for collective investment, as amended, and Circular IML 91/75, and to provide evidence and guarantees thereof. After several updates of a draft, UBSL submitted to the CSSF by post dated 25 May 2009 a final detailed report regarding improvements made to its infrastructure and substantial amendments to its internal procedures relating to the function of depositary bank. [Click here](#) for the complete press release.

- **UCITS : liability of depositories**

Commissioner McCreevy initiates clarification of UCITS (Undertakings for Collective Investment in Transferable Securities) regulations regime. The commissioner McCreevy announced that he intends to clarify and strengthen provisions of the UCITS regime particularly as regards the liability of depositories. He will launch a consultation before the end of June to deal with inconsistencies in the application of the UCITS directive. Please [click here](#) for more information.

- **DTA treaties signed with USA and Bahrein under OECD Model Tax convention**

Luxembourg has signed an agreement for the exchange of bank information on request in all tax matters with the U.S., marking a major step forward in international efforts to counter tax evasion. This is the first agreement by Luxembourg with an OECD country which meets the OECD standard for information exchange.

In an announcement, the two countries said that they have modified an existing bilateral tax treaty dating from 1996 by adding a protocol that updates the information exchange provision of Article 28 of the treaty in accordance with the exchange of information standard of the OECD Model Tax Convention.

Please [click here](#) for the press release issued by OECD.

- **DTA treaty with the Netherlands**

On 29 May 2009, the Luxembourg Minister of the Treasury, Luc Frieden, and the Netherlands State Secretary of Finance, Jan Kees de Jager, signed in The Hague a protocol updating the convention of 8 May 1968 between the Kingdom of the Netherlands and the Grand Duchy of Luxembourg for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital.

The Protocol provides for exchange of information upon request among the tax administrations of both countries. The agreement does not allow for general requests ('fishing expeditions'), nor does it foresee an automatic information exchange procedure. The protocol has no retroactive effect and will apply as of the tax year 2010.

By updating its international network of double taxation treaties, the Government of Luxembourg intends to strengthen its major bilateral economic partnerships. The protocol reflects the privileged relationship between the two countries. The Netherlands currently represent the Grand Duchy's fourth largest trading partner. According to the Luxembourg Government's declaration of 13 March 2009, the Protocol signed today is fully compliant with the Organisation of Economic Cooperation and Development's (OECD) model tax convention on income and capital and in line with international standards of fiscal cooperation. (Communiqué par le Ministère des Finances 29.05.2009)

- **IIFA : Peter De Proft named new Chairman**

Mr. Peter De Proft has been named Chairman and Ms. Susan Olson has been named Vice-Chairman of the Board of Directors of the International Investment Funds Association. Please [click here](#) for the press release.

- **LuxFLAG newsletter**

The Luxembourg Fund Labelling Agency (LuxFLAG) has announced that it will begin publishing a twice-yearly newsletter. The first edition of this publication is due to be released in June, with the second planned for October of this year.

Interested parties can register now to be placed on the mailing list. The address for registration is: <http://www.luxflag.org/publiNewsletter.htm>.

ALFI Event

- **Successful road shows in New York and Boston**

From May 14-15, a 25 strong ALFI delegation, led by Chairman Claude Kremer organized its annual fund industry seminars in New York and Boston which attracted 200 and 135 participants in each location respectively.

Please [click here](#) for the press release.

IFBL Event in collaboration with ALFI and LFF

- **Maximum audience for Islamic conference**

With over 250 participants, the Islamic finance conference organised by the IFBL, ALFI and LFF held on 5 and 6 May in Luxembourg proved to be very successful.

For more information, [please click](#) here.

ALFI Upcoming Events

- **17 June – ALFI Roadshow London**

Please [click here](#) for the program and invitation and [here](#) for the registration form. Participation is free of charge.

• 22 & 23 September – ALFI-NICSA Conference

Sponsorship and exhibition opportunities are now available at www.alfi.lu > events section. This conference will take place at the new conference centre in Luxembourg-Kirchberg.

The event will be preceded, on 21 September, by the now-traditional ALFI golf tournament.

• 15 & 16 October – ALFI TA Forum

Further details available shortly.

• 24 & 25 November – ALFI Alternative Investments Conference

This conference will take place at the new conference centre in Luxembourg-Kirchberg.

For ALFI's 2009 events agenda, [click here](#).

Other Events**• 29 September - HKIFA: 3rd Annual Conference**

The Hong Kong Investment Funds Association ("HKIFA") will be hosting its 3rd AC on September 29, 2009 (Tuesday) at the Hong Kong Convention and Exhibition Centre (New Wing).

Please [click here](#) for the draft program and [here](#) for the enrolment form. If you have any questions, please do not hesitate to contact Barbara Law on 852 8203 6091 (email: hkifa@plus-concepts.com).

Impressum

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