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November 19, 2001

Mr. Arthur Docters van Leeuwen
Chairman
Committee of European Securities Regulators
17 Place de la Bourse
75082 Paris CEDEX 02
France

Mr. Fabrice Demarigny
Secretary General
Committee of European Securities Regulators
17 Place de la Bourse
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**Re: CESR Draft Statement on Consultation
Practices (Ref. CESR/01-007b)**

Dear Messrs. Docters van Leeuwen and Demarigny:

The Securities Industry Association's¹ International Trade and Investment Policy Committee (the "Committee") is submitting this comment letter in response to the Committee of European Securities Regulators' ("CESR") request for comments on its draft Statement of Consultation Practices (the "Statement") published 4 October 2001. The Committee is supportive of CESR's proposed "Consultation Practices" as an excellent first step towards implementing a fully effective consultation process. We believe that such a process best serves all market participants, and is the foundation for deep, liquid and efficient markets.

The Committee is pleased to have the opportunity to comment on the draft Statement and commends CESR for its efforts in developing an open and transparent consultation process. Many members of the Committee have extensive operations in the EU, are engaged in all phases of corporate and public finance there, and have an extensive European retail and institutional

¹ The Securities Industry Association brings together the shared interests of nearly 700 securities firms to accomplish common goals. SIA member firms (including investment banks, broker-dealers, and mutual fund companies) are active in all U.S. and foreign markets and in all phases of corporate and public finance. The U.S. securities industry manages the accounts of nearly 80 million investors directly and indirectly through corporate, thrift, and pension plans, and generates \$358 billion of revenue. Securities firms employ approximately 760,000 individuals in the United States. (More information about SIA is available on its home page:<http://www.sia.com>.)

clientele. In this regard, regulations promulgated and implemented by European regulators have a significant impact on our business, and our ability to meet our clients' demands for products and services.

Guiding Principles of a Transparent Regulatory Process

Over the past several years, a major Committee objective has been to encourage the improvement and enhancement of regulatory transparency in the global capital markets. We have attached the Committee's paper, which has been produced to outline the guiding principles for transparent regulation. We believe CESR's draft Statement broadly reflects the principles and practices outlined in SIA's paper. This paper has been endorsed in principle by the International Councils of Securities Associations, which includes several EU trade groups among its members. Among the key principles and practices described in the paper are:

- 1) Rules, regulations and licensing requirements should be considered and imposed, and regulatory actions should be taken, only for the purpose of achieving legitimate public policy objectives that are expressly identified, including, for example, investor protection, maintaining fair, efficient, and transparent markets, and reducing systemic risk.
- 2) Regulation should be enforced in a fair and non-discriminatory manner.
 - a) Regulations and regulators should not discriminate among licensed market participants on the basis of the nationality or jurisdiction of establishment of the shareholders of a market participant or the jurisdiction of establishment of any entity that owns or controls the equity or indebtedness of a market participant.
 - b) The relationship between a regulator and a licensed market participant should be governed by the standards set forth in relevant rules and regulations, and should not be subject to political or other extraneous or improper considerations.
 - a) The introduction of new securities products and services by firms should be governed by the standards set forth in relevant rules and regulations
- 3) Regulations should be clear and understandable. Clear and understandable regulations and rulings provide market participants with the predictability and necessary knowledge to comply with regulations. Opaque or ambiguous regulations and rulings create uncertainty among investors and licensed market participants.

4) All regulations should be publicly available at all times. All regulations should be made, and at all times remain, publicly available, including requirements to obtain, renew or retain authorization to supply a service. Disciplinary actions should not be taken based on violations of regulatory standards that were not in effect at the time the relevant activity took place.

5) Regulators should issue and make available to the public final regulatory actions and the basis for those actions, in order to enhance public understanding thereof.

We believe that the final Statement might usefully reinforce that public consultation as described above provides a fair and level playing field for all market participants.

Brief Comments on CESR Draft Statement

We hope that in implementing its consultation practices, CESR will consider the following points:

every consultation document should include a thorough explanation of the policy objectives for the proposed regulation so that it will be clear to market participants what problem is to be solved, and why regulatory action is needed;

a statement should be included on the impact of the proposed rule on capital market efficiency, competition and capital formation;

in light of the global nature of today's markets, CESR should not only consult at the national and/or European levels, but should take consideration of views on an international level, which may offer a unique country perspective on the harm or benefits of proposed regulation. Many members of the Committee have large operations in Europe that are impacted by EU regulations; and

we believe that an important part of the consultation process is the extent to which regulators in practice are in a genuine dialogue with market participants and, in developing final rules, incorporate industry views, particularly if major problems are raised with the proposed consultation paper.

Finally, we have had the opportunity to review the submission of the London Investment Banking Association in response to this consultation, and would like to express our strong support for that submission.

We believe CESR's draft consultation practices make an important contribution to the development of an open and cooperative dialogue between European regulators and the public. Moreover, the securities industry, through its support of the Lamfalussy process, its active

participation in consultation (such as CESR's consultation on the Conduct of Business Rules and the European Commission's ISD consultation) and in the legislative and regulatory process (such as the proposed directives on Prospectuses and Market Abuse), is committed to a constructive, on-going dialogue to achieve the Financial Services Action Plan in particular, and the benefits of a genuine internal market in financial services, generally. We encourage CESR to work towards presenting and discussing these practices within IOSCO and other international forums to help establish enhanced global standards for regulatory transparency.

We look forward to working with you on this important issue.

Sincerely yours,



Marc Lackritz
President,
Securities Industry Association



Emily Altman
Chairman,
SIA International Trade and
Investment Policy Committee

Attachment
