



Securities Industry Association

120 Broadway - 35 Fl. • New York, NY 10271-0080 • (212) 608-1500, Fax (212) 968-0703

1425 K Street, NW • Washington, DC 20005-3500 • (202) 216-2000, Fax (202) 216-2119

www.sia.com, info@sia.com

October 1, 2003

Mr. Peter William Skinner MEP
European Parliament
142 Rue Wiertz
B 1047 Brussels
Belgium

Re: EU Transparency Obligations Directive

Dear Mr. Skinner:

On behalf of the Securities Industry Association¹ ("SIA") we are writing you to express our concerns on the European Commission's draft of the Transparency Obligations Directive ("TOD"). SIA supports the European Commission's ("Commission") objective to increase the transparency obligations of issuers of securities admitted to trading in the EU, but is very much concerned about the TOD's impact on third country issuers, and the resulting impact on Europe's capital markets. We welcome the direction of your Draft Report of 19 September 2003, and look forward to commenting more fully in due course.

The Directive as currently drafted would require non-EU issuers of securities listed on a EU exchange to produce, among other things, annual and half-yearly financial statements and reports prepared under International Accounting Standards and EU audit standards. For non-EU issuers, such as US companies which produce financial statements according to US GAAP, the preparation of a second set of statements under IAS would be onerous. If US issuers were to face the additional costs (some estimates put costs of full reconciliation at around US \$10 million per issuer) required to convert to a different accounting standard, they may be driven away from the EU market (including via de-listing). This would reduce investment choice for EU investors, lessen the attractiveness to foreign issuers of listing in the EU, and potentially diminish the vibrancy and liquidity of the EU capital markets.

The current importance of the London Stock Exchange to international issuers is a measure of the potential threat proposed by TOD. Of the 445 LSE-listed international companies, more than 330 are non-EU based. TOD will also have a particularly serious impact on the international debt market; the International Primary Market Association estimates at least 50 percent of all issuers of international debt are incorporated outside the EU. US issuers often raise funds in the European market for a variety of purposes, including short-term financing needs and

¹ The Securities Industry Association, established in 1972 through the merger of the Association of Stock Exchange Firms and the Investment Banker's Association, brings together the shared interests of more than 600 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. According to the Bureau of Labor Statistics, the U.S. securities industry employs nearly 800,000 individuals. Industry personnel manage the accounts of nearly 93-million investors directly and indirectly through corporate, thrift, and pension plans. In 2002, the industry generated \$222 billion in domestic revenue and \$356 billion in global revenues. (More information about SIA is available on its home page: www.sia.com)

for expanding research and development programs. Indeed, on the Luxembourg Bourse, 490 US issuers list more than 3,100 separate bond issues.

The Directive permits the exempting of third country issuers from having to comply with many of the provisions of the Directive, providing that their domestic law contains “equivalent” requirements. We believe that US GAAP should be found equivalent to IAS for purposes of TOD, particularly as the US is committed to working toward the early convergence of international accounting standards. If such a determination is not made, US companies listed in the EU will either incur the additional costs of reconciliation from GAAP to IAS, or consider listing elsewhere. In either case, a major disincentive to listing in the EU will have been created. Our concerns remain, even if a term other than “equivalent” is used.

It is also very important to note that the Commission draft of the Directive contains no provision for the grandfathering of existing debt instruments, including instruments that are nearing their maturity. In light of the significant number of existing debt listings we believe that grandfathering arrangements should be provided. This would reduce the risk that existing securities will be de-listed, avoiding harm to investors, and enabling issuers to plan appropriately for the reporting requirements arising from any future issues. We support the view that only full grandfathering as from a fixed future date will effectively avoid market disruption.

Finally, the Directive uses thresholds of €5,000 (Article 2 (i) (i) – though this should be €1,000 to conform to the Prospectus Directive) and €50,000 (Articles 8 and 16.3 c). For US dollar-denominated issues (which account for about 40 percent of international debt issues) as well as other non-euro denominated issues we recommend that the issue thresholds outlined in the Directive apply as at the date of issuance. Otherwise, issuers will be required to deal with the impossible situation drifting into and out of different provisions of the Directive depending on currency fluctuations.

As you know SIA is a great supporter of the FSAP, and its objective to create an integrated, deep, transparent and liquid European capital market. However, if not revised, the TOD as currently drafted poses problems which could make the European capital markets less attractive to third country issuers, reduce EU investor choice, and diminish market liquidity. Thank you for giving us the opportunity to provide input on this important topic. Please feel free to contact me if you have any questions.

Sincerely,

Steve Judge
Senior Vice President,
Government Affairs

c: Christopher Huhne MEP
Klaus-Heiner Lehne MEP
Theresa Villiers MEP