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Brussels, 23 February 2015

Dear Ms. Tendulkar,

**Re: Comment on the Task Force on Cross-Border Regulation Consultation Report (CR09/2014)**

The European Asset and Fund Management Association (EFAMA<sup>1</sup>) would like to thank IOSCO's Task Force on Cross Border Regulation for providing stakeholders with the opportunity to submit comments regarding our experiences with, and understandings of, the cross-border securities markets as characterised in this report.

The European asset management industry is particularly supportive of both IOSCO and the Task Force's objectives. We believe that IOSCO is in a crucial position to promote at an international level the foundations of a consistent and coordinated cross-border framework and we therefore welcome the published Report and trust that IOSCO's 2020 Working Group will identify this area as one of its main priorities for the next five years. EFAMA will continue to support IOSCO in its efforts to achieve a better regulatory coordination, as we believe it contributes to reducing transaction costs, fostering competitive markets and enhancing cross-border investments.

EFAMA members, especially those who are present in many regional markets, are sometimes frustrated to experience hurdles caused by a general lack of harmonised implementation of IOSCO principles and regional frameworks' extraterritorial elements becoming increasingly disjointed<sup>2</sup>.

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<sup>1</sup>EFAMA is the representative association for the European investment management industry. EFAMA represents through its 26 member associations, 61 corporate members and 23 associate members about EUR 17 trillion in assets under management of which EUR 11 trillion managed by 55,000 investment funds at end September 2014. Over 36,000 of these funds were UCITS (Undertakings for Collective Investments in Transferable Securities) funds. For more information about EFAMA, please visit [www.efama.org](http://www.efama.org)

<sup>2</sup> In this context, we would highlight, among many more examples: (a) the differences in the OTC derivative clearing obligation under EMIR and Dodd Frank; (b) reporting forms PF/PQR under Dodd Frank Act and ESMA reporting Annex under the Alternative Investment Fund Managers Directive; (c) the possibility under Volcker to consider non-US funds as banking entities and therefore within scope of this banking legislation.

We therefore welcome actions by IOSCO to put into place support for further international coordination with an emphasis to ensuring an implementation of the IOSCO continuous work in a more harmonised fashion throughout the world's geographical regions. Progressively, such an approach should help achieve a higher degree of convergence through more and more granular definition of IOSCO's Principles.

We also approve of the Task Force's decision to include passporting (besides national treatment and recognition) as an important regulatory toolkit. Indeed, particularly in the European Union the concept of passporting has proven useful in the case of regional coordination and avoidance of market fragmentation. The most recognized and famous piece of evidence in the form of the EU's Undertakings for Collective Investment in Transferable Securities (UCITS) Directive has been mentioned on several occasions as a prime example to remove unnecessary barriers and burdens impacting retail collective investment schemes within Europe.

### **Regulators' and Industry's Preliminary Suggestions on IOSCO's Role regarding Cross-Border Issues**

While we acknowledge that this chapter represents a summary of suggestions and viewpoints rather than concrete recommendations, we would like to share the following comments with you:

#### **Enhancing international dialogue**

We concur that increasing dialogue between policy makers and regulators on a cross border basis before final laws and regulations which have a cross border impact are finalized is imperative. This would also serve to ensure that new policy objectives are cognizant of existing regulatory frameworks and seek to build on them rather than duplicate existing ones. Unfortunately, such global standards (such as IOSCO's "Principles for Financial Benchmarks") are sometimes destabilized by domestic or regional regulatory implementations that are not always fully consistent with the international standards.

#### **Central hub of information**

We endorse the creation of a central hub where regulators can share their analysis relating to the implementation or cross-border impact of existing or proposed cross-border regulatory tools (along the lines of bilateral regulatory dialogues the EU holds regularly with the US, Japan, China, India, Russia and Brazil). In the interests of continuing cross-border flows of capital while preserving investor protection we believe an initiative of this nature would be of significant assistance to regulators from around the world, each of whom have varying resources. This would also serve to remove some duplication of efforts which exist in the currently unconnected processes.

We also believe that granularity of standards and principles should be in the long-term progressively reinforced on areas where national jurisdictions are already active and when it can help achieving

reciprocity via mutual recognition agreement, but that they should remain broad and less prescriptive when it comes to areas with no or little existing national legislation.

*Guidelines for assessing foreign regulatory regimes*

These Guidelines link together with the comments made in the previous point and supports the ever increasing source of investment opportunities which investors and asset managers are utilizing.

We look forward to participating and assisting in whatever way is of greatest benefit to the Task Force and remain at your disposal in this regard.

Yours sincerely,

Peter De Proft  
Director General